

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

**COMMUNITY AFFAIRS**  
**Senator Simpson, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Tuesday, February 16, 2016  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Simpson, Chair; Senator Brandes, Vice Chair; Senators Abruzzo, Bradley, Dean, Diaz de la Portilla, Hutson, and Thompson

| TAB | BILL NO. and INTRODUCER  | BILL DESCRIPTION and<br>SENATE COMMITTEE ACTIONS  | COMMITTEE ACTION           |
|-----|--|---|----------------------------|
| 1   | <b>CS/CS/SB 686</b><br>Governmental Oversight and Accountability / Ethics and Elections / Gaetz<br>(Compare CS/H 479, CS/H 593, CS/CS/H 651, CS/CS/CS/H 669, H 7071, CS/S 582, S 956, CS/S 992, CS/S 1360) | Government Accountability; Specifying that the Governor, the Commissioner of Education, or the designee of the Governor or of the Commissioner of Education may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements; excluding water management districts from certain audit requirements; prohibiting a member of the Legislature or a candidate for legislative office from accepting employment with a private entity that directly receives funding through state revenues under certain circumstances, etc.<br><br>EE 01/12/2016 Fav/CS<br>GO 02/01/2016 Not Considered<br>GO 02/09/2016 Fav/CS<br>CA 02/16/2016 Favorable<br>AP | Favorable<br>Yeas 8 Nays 0 |
| 2   | <b>SB 1520</b><br>Gaetz<br>(Compare CS/CS/H 1203)  | Tourist Development Taxes; Specifying additional uses for revenues received from tourist development taxes for certain coastal counties, etc.<br><br>CA 02/16/2016 Fav/CS<br>ATD<br>FP  | Fav/CS<br>Yeas 8 Nays 0    |
| 3   | <b>CS/SB 46</b><br>Judiciary / Flores<br>(Identical CS/H 3525)   | Relief of Melvin and Alma Colindres by the City of Miami; Providing for the relief of Melvin and Alma Colindres by the City of Miami; providing for an appropriation to compensate them for the wrongful death of their son, Kevin Colindres, which occurred as a result of the negligence of police officers of the City of Miami; providing a limitation on the payment of fees and costs, etc.<br><br>SM<br>JU 01/26/2016 Fav/CS<br>CA 02/16/2016 Favorable<br>FP  | Favorable<br>Yeas 6 Nays 0 |

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, February 16, 2016, 1:30—3:30 p.m.

| TAB | BILL NO. and INTRODUCER                            | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS  | COMMITTEE ACTION           |
|-----|--|--|----------------------------|
| 4   | <b>SB 418</b><br>Smith<br>(Similar H 93)           | Law Enforcement Officer Body Cameras; Requiring a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras; requiring such policies and procedures to include specified information; requiring that data recorded by body cameras be retained in accordance with specified requirements, etc.<br><br>CJ 02/01/2016 Favorable<br>CA 02/16/2016 Favorable<br>FP | Favorable<br>Yeas 8 Nays 0 |
| 5   | <b>SB 264</b><br>Smith<br>(Compare CS/H 789)       | Special Assessment for Law Enforcement Services; Authorizing a municipality to levy a special assessment to fund the costs of providing law enforcement services; requiring a municipality to adopt an ordinance and reduce its ad valorem millage to levy the special assessment; requiring the property appraiser to list the special assessment on the notice of proposed property taxes, etc.<br><br>CA 02/16/2016 Fav/CS<br>FT<br>FP  | Fav/CS<br>Yeas 5 Nays 1    |
| 6   | <b>SB 1100</b><br>Brandes<br>(Compare CS/CS/H 791) | Local Tax Referenda; Requiring local government discretionary sales surtax referenda to be held on the day of a general election; requiring the approval of a specified percentage of the electors voting in a referendum election to adopt or amend a local government discretionary sales surtax, etc.<br><br>CA 02/16/2016 Fav/CS<br>FT<br>FP   | Fav/CS<br>Yeas 4 Nays 2    |

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, February 16, 2016, 1:30—3:30 p.m.

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| TAB | BILL NO. and INTRODUCER  | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS  | COMMITTEE ACTION           |
|-----|--|--|----------------------------|
| 7   | <b>SB 20</b><br>Diaz de la Portilla<br>(Similar CS/H 3517)                       | Relief of Zaldivar and Campos by Orange County; Providing for the relief of Rafael Zaldivar and Kyoko Zaldivar, parents of Alex Zaldivar, deceased, individually and as co-personal representatives of the Estate of Alex Zaldivar, and Brienna Campos and Remington Campos by Orange County; providing for an appropriation to compensate Rafael Zaldivar and Kyoko Zaldivar for the death of Alex Zaldivar and to compensate Brienna Campos and Remington Campos for the injuries and damages they sustained as a result of the negligence of Orange County; providing a limitation on the payment of fees and costs, etc.<br><br>SM<br>JU 02/09/2016 Favorable<br>CA 02/16/2016 Favorable<br>FP | Favorable<br>Yeas 6 Nays 0 |
| 8   | <b>SB 1152</b><br>Diaz de la Portilla<br>(Compare CS/H 67)                       | Classified Advertisement Websites; Encouraging the Department of Management Services to designate a specified number of state safe-haven facilities in each county based upon population; specifying that the state or local government and its officers, employees, or agents are not responsible for supervising, intervening in, or facilitating sales transactions; limiting the liability of the state and any local government, and of the officers, employees, or agents of the state or any local government, that provides a state safe-haven facility or local safe-haven facility, etc.<br><br>CA 02/16/2016 Fav/CS<br>AGG<br>FP  | Fav/CS<br>Yeas 5 Nays 1    |
| 9   | <b>SB 1508</b><br>Simpson<br>(Similar H 1379, Compare CS/CS/H 7061, CS/CS/S 756) | Airport Zoning; Revising the requirements relating to permits required for obstructions; revising the circumstances under which a political subdivision owning or controlling an airport and another political subdivision adopt, administer, and enforce airport protection zoning regulations or create a joint airport protection zoning board; repealing provisions relating to guidelines regarding land use near airports, etc.<br><br>TR 02/04/2016 Favorable<br>CA 02/16/2016 Fav/CS<br>AP   | Fav/CS<br>Yeas 6 Nays 0    |

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Other Related Meeting Documents

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

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/CS/SB 686

INTRODUCER: Governmental Oversight and Accountability Committee; Ethics and Elections Committee; and Senator Gaetz

SUBJECT: Government Accountability

DATE: February 11, 2016

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

|    | ANALYST                     | STAFF DIRECTOR              | REFERENCE | ACTION                      |
|----|-----------------------------|-----------------------------|-----------|-----------------------------|
| 1. | <u>Carlton</u>              | <u>Roberts</u>              | <u>EE</u> | <u>Fav/CS</u>               |
| 2. | <u>Peacock</u>              | <u>McVaney</u>              | <u>GO</u> | <u>Fav/CS</u>               |
| 3. | <u>Present</u>              | <u>Yeatman</u>              | <u>CA</u> | <u>Favorable</u>            |
| 4. | <u>                    </u> | <u>                    </u> | <u>AP</u> | <u>                    </u> |

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/CS/SB 686 is an omnibus government accountability bill. The bill:

- Prohibits legislators from accepting employment with private entities that directly receive funding through state revenues appropriated by the General Appropriations Act, if he or she knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the legislator's office or candidacy. A member who is employed by such an entity before his or her legislative service may keep his or her employment, however, there are limitations on advancement, promotions, additional compensation, or anything of value that is given because of his or her legislative position. Additionally, such advancement, promotion, additional compensation, or thing of value may not be inconsistent with that given to any other similarly situated employee. For acceptance of future employment by legislators with such entity, several criteria must be met, including the position must already exist or be created without the knowledge or anticipation of the legislator's interest in the position, and the position must be open to other candidates.
- Includes changes to Florida's governmental ethics policies such as broadening the water management district lobbyist registration provisions to apply to many more special districts and applying post-employment lobbying restrictions to certain individuals with Enterprise Florida, its divisions, and the Florida Development Finance Corporation.
- Applies certain ethical standards and post-employment lobbying restrictions to corporations created or housed within the Department of Economic Opportunity (DEO) that are not currently covered by ethical standards.

- Extends the conflicting contractual relationship ban in s. 112.313(7)(a), F.S., to include contracts held by a business entity in which a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity.
- Requires that, beginning in 2016, all elected municipal officers file the more detailed CE Form 6 financial disclosure with their qualifying papers for each year that they hold office.
- Amends Florida's criminal provisions relating to Bribery, Misuse of Public Office, Unlawful Compensation or Reward for Official Behavior, Official Misconduct, and Bid Tampering to replace the corrupt intent mens rea requirement with the knowingly and intentionally mens rea requirement. The bill also applies the crimes of Official Misconduct and Bid Tampering to "public contractors."
- Requires local governmental entities to keep their final budgets, and any amendments thereto, on their website for a period of 2 years after adoption.
- Requires various governmental entities to adopt internal controls to prevent and detect fraud, waste, and abuse.
- Requires governmental entities to investigate claims of unauthorized compensation.
- Allows the Governor or Commissioner of Education, or their designees, to report that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency. The bill increases the Single Audit Act threshold from \$500,000 to \$750,000 and allows the Auditor General to review the threshold periodically and make appropriate recommendations to the Legislature. The bill makes changes to the financial reporting requirements and independent audit requirements. The bill specifies who can serve as members of the auditor selection committees for local governmental entities. The bill requires the Florida Virtual School to have an independent financial audit each year.
- Requires the Florida Clerk of Courts Corporation to notify the Legislature quarterly of any clerk of court who is not meeting workload requirements and to provide corrective action plans within 45 days of the end of the quarter.
- Requires a water management district monthly financial report to be provided in the format required by the Department of Financial Services.
- Requires the Governor or the Commissioner of Education to notify the Legislative Auditing Committee of financial emergencies instead of notifying the members of the Legislative Auditing Committee.
- Clarifies that members of the public are not required to provide an advance written copy of their testimony or comments as a precondition to being given the opportunity to be heard.

The bill is effective October 1, 2016.

## **II. Present Situation:**

*For the purposes of this bill analysis, the Present Situation will be addressed in the III. Effect of Proposed Changes section below.*

### III. Effect of Proposed Changes:

#### DISCUSSION

##### Governmental Ethics Laws

###### *Employment of Members of the Legislature (Section 6)*

*Present Situation:* Article II, Section 8(e) of the State Constitution prohibits members of the Legislature from personally representing another person or entity for compensation before any state agency other than judicial tribunals. Additionally, s. 112.3125, F.S., prohibits legislators (as well as other public officers) from being employed by the state or any of its political subdivisions if he or she knows, or with the exercise of reasonable care should know, that the position is being offered for the purpose of gaining influence or other advantage based upon his or her service as a legislator. A legislator may accept public employment if: the position was already in existence or was created before the entity knew the legislator was interested in the position; the position was publicly advertised; the legislator was subject to the same application and hiring process as other candidates for the position; and the legislator meets or exceeds the qualifications for the position.

The standards of conduct in the Code of Ethics for Public Officers and Employees also contain several limitations on the types of private sector employment and duties that a legislator may have. Specifically, s. 112.313(3), F.S., prohibits a legislator from doing business with the Legislature; s. 112.313(7), F.S., prohibits legislators from having employment or contractual relationships with any business entity or agency that is subject to the regulation of, or doing business with, the Legislature. That section also prohibits employment or contractual relationships that will create a continuing or frequently recurring conflicts of interest or that would impede the proper performance of his or her public duties. Several other provisions of the Code prohibit certain actions, even if the employment or contractual relationship itself is permitted.

*Effect of the Bill:* The bill creates s. 112.3126, F.S., to define the term “private entity” as any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any legal entity, or any natural person. The bill prohibits legislators or a candidate for the Legislature from accepting employment with private entities that directly receive funding through state revenues appropriated by the General Appropriations Act, if he or she knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the legislator’s office or candidacy.

Any employment with such private entity accepted by a member or candidate must meet all of the following conditions:

- The position was already in existence or was created by the employer without the knowledge or anticipation of the legislator’s interest in such position;
- The position was open to other applicants;
- The legislator was subject to the same application and hiring process as other candidates for the position; and
- The legislator meets or exceeds the required qualifications for the position.

A member who is employed by such an entity before his or her legislative service may keep his or her employment; however, there are limitations on advancement, promotions, additional compensation, or anything of value that is given because of his or her position. Additionally, such advancement, promotion, additional compensation, or thing of value may not be inconsistent with that given to any other similarly situated employee.

### ***Collection Methods for Unpaid Financial Disclosure Fines (Section 10)***

*Present Situation:* Section 112.31455, F.S., authorizes the Florida Commission on Ethics to engage in common-law withholding of wages and to seek garnishment in order to collect unpaid financial disclosure fines. Prior to referring such a fine to the Department of Financial Services, the Florida Commission on Ethics must attempt to determine whether or not the filer is a current public officer or public employee.<sup>1</sup> If the person is currently a public officer or public employee, the Florida Commission on Ethics may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of the fine owed to the Florida Commission on Ethics. After receipt and verification of the notice from the Florida Commission on Ethics, the appropriate governing body is required to begin withholding the lesser of 10 percent of, or the maximum amount allowed under federal law from, any salary-related payment. The withheld payments shall be remitted to the Florida Commission on Ethics until the fine is satisfied. Additionally, the Chief Financial Officer or appropriate governing body may retain an amount from each withheld payment to cover administrative costs incurred under s. 112.31455(1)(b), F.S. In the event that the Florida Commission on Ethics determines that the person is no longer a public officer, or is unable to make such a determination, the Florida Commission on Ethics must wait for 6 months. After that period of time, the Florida Commission on Ethics can seek garnishment pursuant to ch. 77, F.S. The Florida Commission on Ethics can refer the unpaid fine to a collection agency.<sup>2</sup> The collection agency can use any legal tool it may possess to collect the unpaid fine. The statute of limitations for an unpaid financial disclosure fine is 20 years.<sup>3</sup>

*Effect of the Bill:* The bill amends s. 112.31455, F.S., to expressly require school districts to withhold public salary-related payments after receiving notice from the commission that an employee has an unpaid fine, including a portion to cover any administrative costs incurred under this section.

### ***Lobbying Registration and Reporting Requirements for Certain Districts (Section 11)***

*Present Situation:* Section 112.3261, F.S., requires a person who seeks to lobby a water management district to register as a lobbyist before he or she begins to lobby. The lobbyist must present a signed statement authorizing him or her to act on the principal's behalf. The statement must also state the principal's main business. Changes to this information must be reported within 15 days. Water management districts may create their own lobbyist registration forms or use a legislative or executive branch lobbyist registration form. Districts are required to be diligent in ascertaining whether lobbyists have properly registered and may not knowingly allow a lobbyist to lobby if he or she is not registered. The Florida Commission on Ethics is charged with investigating complaints alleging that a lobbyist has failed to register or provided false

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<sup>1</sup> Section 112.31455(1), F.S.

<sup>2</sup> Section 112.31455(3), F.S.

<sup>3</sup> Section 112.31455(4), F.S.

information in a report or registration. The Governor has the authority to enforce the Florida Commission on Ethics' findings and recommendations. The water management districts were granted rulemaking authority to adopt rules and establish procedures to govern lobbyist registration, including the adoption of forms and the establishment of a lobbyist registration fee not to exceed \$40.

*Effect of the Bill:* The bill amends s. 112.3261, F.S., to revise definitions of the terms "governmental entity" or "entity," and "lobbies," and to expand the scope of lobbyist registration and reporting requirements to apply to hospital districts, a children's services district, expressway authorities, port authorities, counties or municipalities that have not adopted lobbyist registration or reporting requirements, or any independent special district with annual revenues of more than \$5 million which exercises ad valorem taxing authority.

### ***Post Service Lobbying Restrictions (Sections 3, 25, and 26)***

*Present Situation:* Section 288.92, F.S., authorizes Enterprise Florida, Inc. (Enterprise Florida) to create and dissolve divisions as necessary to carry out its mission. That section also requires Enterprise Florida to have certain divisions. The law also provides for hiring of officers and members of the divisions of Enterprise Florida and subjects certain officers and members to several standards of conduct in the Code of Ethics for Public Officers and Employees.<sup>4</sup> The law currently does not contain any post-employment or post-service restrictions.

*Effect of the Bill:* The bill amends s. 288.92, F.S., (section 25), to prohibit officers and members of the boards of directors of the divisions of Enterprise Florida, subsidiaries of Enterprise Florida, corporations created to carry out the missions of Enterprise Florida, and corporations with which a division is required by law to contract to carry out its missions, from representing another person or entity for compensation before Enterprise Florida, divisions of Enterprise Florida, subsidiaries of Enterprise Florida, corporations created to carry out the missions of Enterprise Florida, and corporations with which a division is required by law to contract to carry out its missions, for a period of 2 years after retirement or termination of service to a division, or for a period of 10 years if such officer or board member is removed or terminated for misconduct, as defined in s. 443.036(29), F.S.

*Present Situation:* The Florida Development Finance Authority is created in s. 288.9604, F.S. That provision addresses appointment of members of the board of directors and powers of the corporation. It also subjects directors to several standards of conduct in the Code of Ethics for Public Officers and Employees.<sup>5</sup> The law currently does not contain any post-employment or post-service restrictions.

*Effect of the Bill:* The bill amends s. 288.9604, F.S., (section 26), to prohibit directors of the Florida Development Finance Authority from representing another person or entity for compensation before the corporation, for a period of 2 years following his or her service on the board.

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<sup>4</sup> Part III, Chapter 112, Florida Statutes.

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



*Present Situation:* The Department of Economic Opportunity is created in s. 20.60, F.S., and has numerous entities under its purview in various chapters of the Florida Statutes. While the Department is an agency, and therefore subject to the provisions of the Code of Ethics for Public Officers and Employees, many of the divisions and corporations created by, or administratively housed in, may not be subject to the provisions.

*Effect of the Bill:* The bill creates s. 20.602, F.S., (section 3), to subject the officers and members of the boards of directors of any corporation created pursuant to ch. 288, F.S., Space Florida, CareerSource Florida, Inc., the Florida Housing Finance Corporation, or any other corporation created by the Department of Economic Opportunity to certain standards of conduct. Specifically, those individuals are subject to the anti-nepotism provision in s. 112.3135, F.S., the voting conflicts standard applicable to statewide officers in s. 112.3143(2), F.S., and the standards of conduct in s. 112.313, F.S. Additionally, the bill prohibits a former officer or board member from representing a person or entity for compensation before his or her corporation; a division, subsidiary, or the board of directors of a corporation created to carry out the mission of his or her corporation; a corporation with which his or her former corporation within DEO is required by law to contract with to carry out its missions for a period of 6 years after retirement or termination of service with the DEO corporate entity. If he or she is removed due to misconduct, as defined in s. 443.036(29), F.S., the prohibition applies for a period of 10 years.

#### ***Conflicting Employment and Contractual Relationships (Section 7)***

*Present Situation:* Section 112.313(7)(a), F.S., prohibits public officers and employees of an agency from having employment or contractual relationships with a business entity or agency that is subject to the regulation of, or doing business with, his or her agency. That section further prohibits public officers and employees of an agency from having employment or a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

In its annual reports to the Legislature for the last several years, the Commission on Ethics has advised that the law needs to be amended. Specifically, the Commission has advised that individuals were creating a fictitious legal entity then using those fictitious legal entities to engage in contracts that would be prohibited if the people entered them individually.

*Effect of the Bill:* The bill amends s. 112.313(7)(a), F.S., to provide that if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, contractual relationships held by the business entity are deemed to be held by the public officer. As such, if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, it would be a violation for the business entity to have a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties. The public officer or public employee would face penalties ranging from censure and reprimand to removal from office. The penalties also permit a civil fine up to \$10,000 per violation.

### ***CE Form 6 Financial Disclosure (Sections 8 and 38)***

*Present Situation:* Section 112.3144, F.S., requires certain officers that are specified in Article II, Section 8 of the State Constitution, and other officers as required by law, to file a Full and Public Disclosure of Financial Interests (commonly referred to as a CE Form 6). That statute addresses what is required to be disclosed, the due date of the disclosure, the processes to amend the disclosure, and penalties for failing to file the CE Form 6 as required. This filing is more detailed than what is referred to as a CE Form 1 which is filed annually by other officers as provided in s. 112.3145, F.S. Currently, elected municipal officers are subject to the CE Form 1 filing requirement in accordance with s. 99.061, F.S.

*Effect of the Bill:* The bill amends s. 112.3144, F.S., (section 8), to require all elected municipal officers to file the more detailed CE Form 6 annually as provided in s. 112.3144, F.S., beginning with the 2016 filing year.<sup>6</sup> The bill also amends s. 99.061, F.S., (section 38), to require a candidate for elected municipal office to file a CE Form 6 with his or her qualifying papers.

### **Criminal Ethics Provisions**

#### ***Nineteenth Statewide Grand Jury***

A statewide grand jury<sup>7</sup> was impaneled in February 2010 upon the petition of Governor Charlie Crist to the Supreme Court of Florida. In the Petition for Order to Impanel a Statewide Grand Jury, Governor Crist requested that the following should be addressed:<sup>8</sup>

- Examine criminal activity of public officials who have abused their powers via their public office;
- Consider whether Florida's prosecutors have sufficient resources to effectively combat corruption;
- Address the effectiveness of Florida's current statutes in fighting public corruption;
- Identify any deficiencies in current laws, punishments or enforcement efforts and make detailed recommendations to improve our anti-corruption initiatives;
- Investigate crimes, return indictments, and make presentations; and
- Examine public policy issues regarding public corruption and develop specific recommendations regarding improving current laws.

The Nineteenth Statewide Grand Jury issued its First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions on December 17, 2010. In its report, the Nineteenth Statewide Grand Jury made several recommendations to the Legislature, including revisions to ch. 838, F.S., regarding the definitions of the terms "public servant" and "corruptly" and "corrupt intent," and the offenses of bribery, unlawful compensation or reward for official behavior, official misconduct, and bid tampering.

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<sup>6</sup> Financial disclosure, much like federal income tax filings, are done for the preceding year. Thus, elected municipal officers will be required to file the CE Form 6 for the first year by July 1, 2017.

<sup>7</sup> See ss. 905.31-905.40, F.S., known as the Statewide Grand Jury Act.

<sup>8</sup> Nineteenth Statewide Grand Jury First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions, December 17, 2010, Case No. SC 09-1910. Available online at: [http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/\\$file/19thSWGJInterimReport.pdf](http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/$file/19thSWGJInterimReport.pdf) (last visited on Feb. 12, 2016).

***Color of Law***

Florida law does not enhance criminal classifications or felony sentencing penalties for criminal acts committed “under color of law” where the enhancements for wrongful conduct are based on public authority or position or the assertion of such that does not form an element of the underlying crime. The Nineteenth Statewide Grand Jury also recommended that the Legislature consider reclassification of such offenses.<sup>9</sup>

***Doctrine of Mens Rea and Scienter***

The term “mens rea” is defined as “a guilty mind; a guilty or wrongful purpose; a criminal intent.”<sup>10</sup> Black’s Law Dictionary notes that the term scienter is defined as “knowingly” and frequently used to signify the defendant’s guilty knowledge.<sup>11</sup> The general rule is that scienter or mens rea is a necessary element in the indictment for every crime.<sup>12</sup>

The Nineteenth Statewide Grand Jury found that the use of the word “corruptly” or “with corrupt intent” made prosecutions of offenses under ch. 838, F.S., more difficult and might require additional evidence, such as testimony from persons involved.<sup>13</sup> The Nineteenth Statewide Grand Jury recommended that the additional element of “corruptly” or “with corrupt intent” be removed from the ch. 838, F.S., offenses of bribery, unlawful compensation, official misconduct, and bid tampering.<sup>14</sup>

***Bribery; Misuse of Public Office: Chapter 838, F.S. (Section 28)***

*Present Situation:* Chapter 838, F.S., pertains to bribery and other offenses concerning the misuse of public office.

Section 838.014(4), F.S., defines the term “corruptly” or “with corrupt intent” as acting knowingly and dishonestly for a wrongful purpose.

Section 838.014(6), F.S., defines the term “public servant” as:

- a) Any officer or employee of a state, county, municipal, or special district agency or entity;
- b) Any legislative or judicial officer or employee;
- c) Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or
- d) A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

*Effect of the Bill:* The bill amends s. 838.014, F.S., to define the term “governmental entity” as an agency or entity of the state, a county, a municipality, or a special district or any other public entity created or authorized by law. The bill appears to expand the definition of “governmental

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

<sup>10</sup> BLACK’S LAW DICTIONARY 1137 (4th Rev. 1968).

<sup>11</sup> *Id.* 1512.

<sup>12</sup> *Chicone v. State*, 684 So.2d 736, 741 (Fla. 1996). Also, see *U.S. v. Balint*, 258 U.S. 250 (1922).

<sup>13</sup> See *supra* note 8, at 24.

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

entity” to include other public entities, such as Citizens Property Insurance Corporation,<sup>15</sup> statutorily-created direct support organizations,<sup>16</sup> and other statutorily-created public entities. The definition of “corruptly” or “with corrupt intent” is eliminated.

The bill defines the term “public contractor,” for the offenses of official misconduct<sup>17</sup> and bid tampering,<sup>18</sup> as any person, as defined in s. 1.01(3), F.S., who has entered into a contract with a governmental entity; or any officer or employee of a person, as defined in s. 1.01(3), F.S., who has entered into a contract with a governmental entity. “Person” is defined in s. 1.01(3), F.S., as “individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.”

The bill revises the definition of the term “public servant” as any officer or employee of a governmental entity including executive, legislative, or judicial branch officer or employee and a candidate for election or appointment to any of the officer positions listed in this subsection.

### ***Bribery (Section 29)***

*Present Situation:* Section 838.015, F.S., relates to the offense of bribery.<sup>19</sup> Any individual who violates this section is guilty of a felony of the second degree, which is punishable as provided for in ss. 775.082, 775.083, or 775.084, F.S.<sup>20</sup>

Chapter 838, F.S., also contains three other bribery offenses, including bribery in athletic contests,<sup>21</sup> commercial bribery receiving,<sup>22</sup> and commercial bribery.<sup>23</sup> In *Roque v. State*, the Florida Supreme Court held that s. 838.15, F.S., the commercial bribe receiving law, was invalid.<sup>24</sup> The Nineteenth Statewide Grand Jury Report opined that s. 838.16, F.S., commercial bribery, was probably unconstitutionally vague since s. 838.16, F.S., referred to s. 838.15, F.S.<sup>25</sup>

<sup>15</sup> Section 627.351(6), F.S. Citizens Property Insurance Corporation was created in 2002 as a not-for-profit insurer of last resort for home-owners who could not obtain insurance elsewhere.

<sup>16</sup> A direct support organization is an organization incorporated under ch. 617, F.S., and approved by the Department of State as a Florida corporation not for profit that is approved by a state agency to operate for the benefit of a specific program, such as the Florida Historic Capitol Museum Council’s direct support organization. See s. 272.131(1)(e), F.S.

<sup>17</sup> Section 838.022, F.S.

<sup>18</sup> Section 838.22, F.S.

<sup>19</sup> Section 838.015(1), F.S., defines “bribery” as corruptly to give, offer, or promise to any public servant, or, if a public servant, corruptly to request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.

<sup>20</sup> Section 838.015(3), F.S. Under sections 775.082 and 775.083, Florida Statutes, a second degree felony is punishable by a term of imprisonment not to exceed 15 years, and a maximum fine of \$10,000. Section 775.084, Florida Statutes, relates to habitual felony offenders. If a habitual felony offender is convicted of a second degree felony, such offender may be sentenced for a term not exceeding 30 years.

<sup>21</sup> Section 838.12, F.S.

<sup>22</sup> Section 838.15, F.S.

<sup>23</sup> Section 838.16, F.S.

<sup>24</sup> *Roque v. State*, 664 So.2d 928 (Fla. 1995). The Court further noted that s. 838.015, F.S., was impermissibly vague and subject to arbitrary application. *Id.* at 929.

<sup>25</sup> See *supra* note 8, at 34.

*Effect of the bill:* The bill amends s. 838.015, F.S., to change the mens rea element of the offense of bribery from “corruptly” to “knowingly and intentionally.”

***Unlawful Compensation or Reward for Official Behavior (Section 30)***

*Present Situation:* Section 838.016, F.S., pertains to unlawful compensation or reward for official behavior. Any person who violates this section commits a second degree felony which is punishable as provided for in ss. 775.082, 775.083, or 775.084, F.S.<sup>26</sup>

Section 838.016, F.S., pertains to unlawful compensation or reward for official behavior. It is a second degree felony for any person corruptly to give, offer, or promise to any public servant any benefit not authorized by law; or for any public servant corruptly to request, solicit, accept or agree to accept any benefit not authorized by law:

- For the past, present, or future performance, nonperformance or violation of any act or omission; or
- For the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been or the public servant represents to have been either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.

*Effect of the bill:* The bill amends s. 838.016, F.S., to change the mens rea element of the offense of unlawful compensation or reward for official behavior from “corruptly” to “knowingly and intentionally.”

***Official Misconduct (Section 31)***

*Present Situation:* The offense of official misconduct contained in s. 838.022(1), F.S., provides that it “is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another to:

- Falsify, or cause another person to falsify, any official record or official document;
- Conceal, cover up, destroy, mutilate, or alter any official record or official document or cause another person to perform such an act; or
- Obstruct, delay, or prevent the communication of information relating to the commission of a felony that directly involves or affects the public agency or public entity served by the public servant.

Any person who violates this section commits a felony of the third degree, which is punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, F.S.<sup>27</sup>

*Effect of the bill:* The bill amends s. 838.022, F.S., to subject public contractors to the same level of conduct as public servants. The mens rea element of the offense is changed from “with corrupt intent” to “knowingly and intentionally.” The law is clarified so that the harm caused to another

<sup>26</sup> Section 838.016(4), F.S. Also, see *supra* note 4.

<sup>27</sup> Section 838.022(3), F.S. Under sections 775.082 and 775.083, Florida Statutes, a third degree felony is punishable by a term of imprisonment not to exceed 5 years, and a maximum fine of \$5,000. Section 775.084, Florida Statutes, relates to habitual felony offenders. If a habitual felony offender is convicted of a third degree felony, such offender may be sentenced for a term not exceeding 10 years.

must be an “unlawful harm.” Concealing, covering up, destroying, mutilating, or altering an official record is criminalized unless such action is authorized by law or contract.

### ***Bid Tampering (Section 32)***

*Present Situation:* Section 838.22, F.S., provides that:

- 1) It is unlawful for a public servant, with corrupt intent to influence or attempt to influence the competitive bidding process undertaken by any state, county, municipal, or special district agency, or any other public entity, for the procurement of commodities or services, to:
  - a) Disclose material information concerning a bid or other aspects of the competitive bidding process when such information is not publicly disclosed.
  - b) Alter or amend a submitted bid, documents or other materials supporting a submitted bid, or bid results for the purpose of intentionally providing a competitive advantage to any person who submits a bid.
- 2) It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause unlawful harm to another, to circumvent a competitive bidding process required by law or rule by using a sole-source contract for commodities or services.
- 3) It is unlawful for any person to knowingly agree, conspire, combine, or confederate, directly or indirectly, with a public servant to violate subsection (1) or subsection (2).
- 4) It is unlawful for any person to knowingly enter into a contract for commodities or services which was secured by a public servant acting in violation of subsection (1) or subsection (2).
- 5) Any person who violates this section commits a felony of the second degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.<sup>28</sup>

*Effect of the Bill:* The bill amends s. 838.22, F.S., to expand the application of the bid tampering laws to public contractors who have contracted with a governmental entity to assist in a competitive procurement. These public contractors are treated similar to public servants for this law. The mens rea element of the offense is changed from “with corrupt intent” to “knowingly and intentionally” influence.

### **Online Posting of Governmental Budgets**

#### ***Counties, Municipalities, and Special Districts (Sections 12, 13, 14, and 15)***

*Present Situation:* Counties<sup>29</sup>, municipalities<sup>30</sup>, and special districts<sup>31</sup> are required to post their tentative budgets on their websites 2 days prior to consideration of the budget. The final budget of a county, municipality or special district must be posted on the county, municipality, or special district website within 30 days after adoption. An amendment to a budget must be posted to the county, municipality, or special district website within 5 days of adoption.<sup>32</sup> Current law does not specify how long those items must remain available on the website.

*Effect of the Bill:* The bill amends s. 129.03, F.S., (section 12), to require a county’s tentative budget to remain on the county’s website for at least 45 days and the final budget remain on its

<sup>28</sup> See *supra* note 4.

<sup>29</sup> Section 129.03, F.S.

<sup>30</sup> Section 166.241, F.S.

<sup>31</sup> Section 189.016, F.S.

<sup>32</sup> Section 129.06, F.S.

website for at least 2 years. The bill amends s. 129.06, F.S., (section 13), to require that the amended final adopted budget must remain on the county's website for at least 2 years.

The bill amends s. 166.241, F.S., (section 14), to require a municipality's tentative budget to remain on the municipality's website for at least 45 days and the final adopted budget remain on its website for at least 2 years.

The bill amends s. 189.016, F.S., (section 15), to require a special district's tentative budget to remain on the special district's website for at least 45 days, the final adopted budget to remain on its website for at least 2 years, and the amended final adopted budget remain on its website for at least 2 years.

### ***Water Management Districts (Section 27)***

*Present Situation:* Chapter 373 governs Florida's water resource management. That chapter includes provisions authorizing the creation of water management districts and provides those districts with taxing authority. Section 373.536, F.S., governs water management districts budget process. That section also requires financial audits, 5-year capital improvement plans, and 5-year water resource development work programs. All of these items must be submitted to the Department of Environmental Protection as specified in s. 373.536(6), F.S. The tentative budget is required to be posted on the water management district's website at least 2 days before the budget hearings are conducted. The law requires the final budget to be posted on the district's official website within 30 days of adoption.

*Effect of the Bill:* The bill amends s. 373.536, F.S., to require the tentative budget to remain on the district's website for at least 45 days. The bill requires the final budget to remain on the district's website for at least 2 years.

### **Internal Controls to Prevent and Detect Fraud, Waste, and Abuse**

#### ***State Agencies and the Judicial Branch (Section 17)***

*Present Situation:* Section 215.86, F.S., provides:

Each state agency and the judicial branch as defined in s. 216.011 shall establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliability of records and reports; and safeguarding of assets. Accounting systems and procedures shall be designed to fulfill the requirements of generally accepted accounting principles.

*Effect of the Bill:* The bill amends s. 215.86, F.S., to require each entity to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, and grant agreements; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

***Local Governmental Entities (Section 21)***

*Present Situation:* Section 218.33, F.S., requires each local governmental entity to begin its fiscal year on October 1 and end it on September 30. Section 218.33(2), F.S., requires each local governmental entity to follow uniform accounting practices and procedures as provided by rule of the department to assure the use of proper accounting and fiscal management by such units. Such rules shall include a uniform classification of accounts.

*Effect of the Bill:* The bill amends s. 218.33, F.S., to require each local governmental entity to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

***Charter Schools (Section 34)***

*Present Situation:* Section 1002.33, F.S., authorizes charter schools as part of Florida's state program of education. In addition to the creation of charter schools, that section also imposes certain requirements on charter schools. In pertinent part, the law requires that the governing body of a charter school is responsible for: ensuring that the charter school has retained a certified public accountant to perform its annual audit; reviewing the audit report; establishing a corrective plan, if necessary; monitoring a financial recovery plan to ensure compliance; and, participating in governance training approved by the Department of Education. That governance training is required to address government in the sunshine, conflicts of interest, ethics, and financial responsibility.

*Effect of the Bill:* The bill amends s. 1002.33, F.S., to require the governing body of each charter school to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

***School Districts and Florida College System Institutions (Sections 33 and 36)***

*Present Situation:* The financial records and accounts of each school district, Florida College System institution, and other institution or agency under the supervision of the State Board of Education shall be prepared and maintained as prescribed by law and the rules of the State Board of Education. The financial records and accounts of each state university under the supervision of the Board of Governors shall be prepared and maintained as prescribed by law and the rules of the Board of Governors. Rules of the State Board of Education and rules of the Board of Governors shall incorporate the requirements of law and accounting principles generally accepted in the United States. Such rules shall include a uniform classification of accounts. Each state university shall annually file with the Board of Governors financial statements prepared in conformity with accounting principles generally accepted by the United States and the uniform classification of accounts prescribed by the Board of Governors. The Board of Governors' rules shall prescribe the filing deadline for the financial statements. Required financial accounts and reports shall include provisions that are unique to each of the following: K-12 school districts, Florida College System institutions, and state universities, and shall provide for the data to be



reported to the National Center of Educational Statistics and other governmental and professional educational data information services as appropriate.

Section 1001.42, F.S., outlines the powers and duties of district school boards, including the discretionary authority to retain an internal auditor to perform ongoing financial verification of the financial records of the school district.

*Effect of the Bill:* The bill amends s. 1010.01, F.S., (section 36), to require each school district, Florida College System institution, and state university to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets.

The bill also amends s. 1001.42(12), F.S., (section 33), to authorize the internal auditor that may be employed by the school district to perform ongoing financial verification of financial records and other such audits and reviews as the district school board directs for the purposes of determining: the adequacy of internal controls designed to prevent and detect fraud, waste and abuse; compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices; the efficiency of operations; the reliability of financial records and reports; and the safeguarding of assets.

Additionally, the bill amends s. 1001.42, F.S., to authorize district school board members to visit schools, observe the management and instruction, give suggestions for improvement, and advise citizens with the view of promoting interest in education and improving the school.

#### ***Justice Administration Commission (Section 5)***

*Present Situation:* The Justice Administration Commission (Commission) is created in s. 43.16, F.S. Among its duties, the Commission is charged with maintaining a central state office for administrative services and assistance when possible, and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program. Additionally, the Commission records and submits necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans that were created by the state attorney, public defender, and criminal conflict and civil regional counsel and the Guardian Ad Litem Program.

*Effect of the Bill:* The bill amends s. 43.16, F.S., to require the Justice Administration Commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program to establish and maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and, safeguard assets.

## **Extra Compensation Claims and False Claims Act Changes (Section 16)**

### ***Extra Compensation Claims***

*Present Situation:* Section 215.425, F.S., prohibits extra compensation to any officer, agent, employee, or contractor after the service has been rendered or the contract made. Money may not be appropriated or paid on any claim the subject matter of which has not been provided for by preexisting laws, unless such compensation or claim is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature. However, when adopting salary schedules for a fiscal year, a district school board or community college district board of trustees may apply the schedule for payment of all services rendered subsequent to July 1 of that fiscal year. That section also requires a contract or employment agreement, or renewal of a contract or employment agreement, containing a provision for severance pay to limit severance pay to 20 weeks and to prohibit severance pay when the individual is terminated for misconduct.

*Effect of the Bill:* The bill amends s. 215.425, F.S., to define the term “public funds” as:

Any taxes, tuition, state grants, fines, fees, or other charges or any other type of revenue collected by the state or any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, or commission of such entities. However, if the payment and receipt does not otherwise violate part III, ch. 112, F.S., the following are not considered public funds:

- Revenues received by the Board of Governors or state universities through or from faculty practice plans; health services support organizations; hospitals with which state universities are affiliated; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Revenues received by Florida College System institutions through or from faculty practice plans; health services support organizations; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Certain revenues that are received by a hospital licensed under ch. 395 which has entered into a Medicaid Provider Contract, and that:
  - Are not derived from the levy of an ad valorem tax;
  - Are not derived from patient services paid through the Medicaid or Medicare program;
  - Are derived from patient services pursuant to contracts with private insurers or private managed care entities, or paid by the patient or private entities; or
  - Are not appropriated by the Legislature or by any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, or institution of such entities, except for revenues otherwise authorized to be used pursuant to subparagraphs 2. and 3.
- Revenues or fees received by a seaport or airport from sources other than through the levy of a tax, or funds appropriated by any county or municipality or the Legislature.

The bill amends the provisions regarding a bonus scheme to require notification of all employees who meet the prescribed criteria for a particular bonus and to consider all employees who meet the prescribed criteria for a particular bonus scheme.

The bill requires new contracts or renewal contracts on or after July 1, 2011, in which units of government are a party, and on or after July 1, 2012, in which state universities are a party, to contain a requirement that severance pay from public funds may not exceed 20 weeks and to prohibit severance paid from any source of revenue when the officer, agent, employee, or contractor has been fired for misconduct.

In regards to determining the amount of severance pay, the bill requires the unit of government or the state university to consider the nature of the claim, the circumstances giving rise to the claim, and the potential cost of resolving the dispute. The existence of a contract providing for severance pay does not limit the application of this provision to the settlement of a dispute.

Subsections (6)-(8) are added to s. 215.425, F.S., to require a unit of government that has made a prohibited compensation payment to investigate and take all reasonable actions to recover the prohibited compensation. If the compensation was provided unintentionally, the unit of government must take all reasonable action to recover the prohibited compensation through its normal recovery methods. If the prohibited payment was willfully made, the unit of government must take all reasonable action to recover the payment from either the recipient or the employee or employees of the unit of government who willfully violated this section. Each individual determined to have willfully violated this section is jointly and severally liable for repayment of the prohibited compensation. The bill provides for suspension and removal of officers as follows: an officer who exercises the powers and duties of a state or county office may be suspended by the Governor and removed by the Florida Senate. Any other officer may be suspended and removed by the Governor pursuant to s. 112.51, F.S.

Subsections (6)-(8) apply prospectively to contracts or employment agreements, or the renewal or renegotiation or an existing contract or employment agreement, effective on or after October 1, 2016.

## **Auditing**

### ***Joint Legislative Auditing Committee (Sections 1 and 2)***

*Present Situation:* Section 11.40, F.S., provides:

Following notification by the Auditor General, the Department of Financial Services, or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within

ss. 11.45(5)-(7),<sup>33</sup> 218.32(1),<sup>34</sup> 218.38,<sup>35</sup> or 218.503(3),<sup>36</sup> the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action.

Section 11.45, F.S., defines the types of audits that may be conducted. That section requires the Auditor General to conduct certain state and local governmental audits and specifies the frequency with which the audits must occur. Section 11.45, F.S., also allows the Auditor General to conduct other audits he or she determines to be appropriate. For purposes of s. 11.45, F.S., the term local governmental entity means “a county agency, municipality, or special district as defined in s. 189.012, F.S., but does not include any housing authority established under ch. 421, F.S.”

The Auditor General is required to transmit, by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts that have failed to comply with the transparency requirements as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to subsection (2).

*Effect of the Bill:* The bill amends s. 11.40, F.S., (section 1), to provide that the Governor or his or her designee, or the Commissioner of Education or his or her designee, may also notify the Joint Legislative Auditing Committee that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency.

The bill amends s. 11.45, F.S., (section 2), to define the terms “abuse,” “fraud,” and “waste” as follows:

- “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.
- “Fraud” means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity’s assets, bribery, or the use of one’s position for personal enrichment through the deliberate misuse or misapplication of an organization’s resources.
- “Waste” means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

The bill also redefines the term “Local governmental entity” for purposes of s. 11.45, F.S., to include tourist development councils and county tourism promotion agencies.

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<sup>33</sup> Section 11.45, F.S., governs certain audits to be conducted by the Auditor General.

<sup>34</sup> Section 218.32(1), F.S., requires annual financial reports from local governmental entities.

<sup>35</sup> Section 218.38, F.S., requires notice of bond issuance and contains verification requirements.

<sup>36</sup> Section 218.503(3), F.S., requires those entities to disclose a financial emergency and provide certain information concerning a financial emergency.

The bill exempts water management districts from being subject to audits pursuant to s. 11.45(2)(j), F.S. The bill allows the Auditor General to conduct audits or other engagements of tourist development councils and county tourism promotion agencies. The bill also conforms the Auditor General's reporting requirement to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, by removing the obsolete reference to water management districts and replacing it with the phrase "local governmental entity."

### ***Single Audit Act (Section 18)***

*Present Situation:* The Florida Single Audit Act, s. 215.97, F.S., is designed to establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects; promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities; promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities; provide for identification of state financial assistance transactions in the state accounting records and recipient organization records; promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance; and, ensure, to the maximum extent possible, that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities. Pursuant to the Single Audit Act, certain entities that exceed the "audit threshold" are subject to a state single audit or a project specific audit. Currently, the "audit threshold" is defined as:

the threshold amount used to determine when a state single audit or project-specific audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such nonstate entity shall be required to have a state single audit, or a project-specific audit, for such fiscal year in accordance with the requirements of this section. Every 2 years the Auditor General, after consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding agencies, shall review the threshold amount for requiring audits under this section and may adjust such threshold amount consistent with the purposes of this section. Section 215.97(2)(a), F.S.

*Effect of the Bill:* The bill amends s. 215.97, F.S., to change the audit threshold from \$500,000 to \$750,000. Additionally, the bill changes the requirement that the Auditor General review the threshold amount for requiring audits from every 2 years to "periodically." The term "periodically" is not defined in the bill. Finally, the bill authorizes the Auditor General to recommend to the Legislature a statutory change to revise the threshold amount in the annual report submitted pursuant to s. 11.45(7)(f), F.S.

### ***Local Government Entity Annual Financial Reports (Section 20)***

*Present Situation:* Section 218.32, F.S., requires certain local governmental entities to submit an annual financial report for the previous fiscal year. The annual financial report is required to be

signed by the chair of the governing body and the chief financial officer of the local governmental entity. That section also specifies what information is required to be in the report.

Additionally, the Department of Financial Services is required to file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report.<sup>37</sup>

*Effect of the Bill:* The bill amends s. 218.32, F.S., to require an independent certified public accountant completing an audit of a unit of local government pursuant to s. 218.39, F.S., to determine, as part of the audit, whether or not the entity's annual financial report is in agreement with the audit report. The accountant's audit report must be supported by the same level of detail required for the annual financial report. If the reports are not in agreement, the bill requires the audit to specify the differences that exist between the annual financial report and the audit report.

The bill also provides that, in preparing the verified report, the Department of Financial Services may request additional information from the local governmental entity. Any additional information requested must be provided within 45 days of the request. If the local governmental entity does not comply with the request, the Department of Financial Services must notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2), F.S.

### ***Annual Financial Audit Reports (Section 22)***

*Present Situation:* If certain types of governmental entities are not notified by the first day of the fiscal year that they will be audited by the Auditor General, those entities must have an annual financial audit performed by an independent certified public accountant completed within 9 months.<sup>38</sup> Section 218.39, F.S., lays out the minimum required information for the independent audits and provides for discussion between the governing body and the independent certified public accountant regarding certain specified conditions. If corrective action is required and has not been taken, the Legislative Auditing Committee can request a statement explaining why the corrective action has not been taken and provides for corrective steps including actions pursuant to s. 11.40(2), F.S.

*Effect of the Bill:* The bill amends s. 218.39, F.S., to provide that if the audit report contains a recommendation from the preceding financial audit report, the governing body, within 60 days, must indicate its intent regarding corrective action, the corrective action to be taken, and when the corrective action will occur. If the governing body does not intend to take any corrective action, it shall explain why such action will not be taken at the regularly scheduled public meeting.

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<sup>37</sup> Section 218.32(2), F.S.

<sup>38</sup> Section 218.39, F.S.

***Auditor Selection Procedures (Section 23)***

*Present Situation:* Section 218.391, F.S., lays out the process that specified governmental entities<sup>39</sup> must follow in selecting its independent certified public accountant to act as an auditor. Noncharter counties are required to create a committee consisting of each of its elected county constitutional officers and one member of the board of county commissioners or their designee. Those entities must create an audit committee which must make a request for proposals. The law lays out what must be considered in selecting the firm and discusses negotiating for compensation.

*Effect of the Bill:* The bill amends s. 218.391, F.S., to require all counties to have an auditor selection committee consisting of each of its officers elected pursuant to the county charter or Florida Constitution. The bill requires municipalities, special districts, district school boards, charter schools, or charter technical career centers to create an audit committee with at least three members, one of which must be a member of the governing body of the entity. That member will serve as the committee's chair. An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not be a member of an audit committee established under this section.

The audit report submitted pursuant to s. 218.39, F.S., must include an affidavit executed by the chair of the audit committee affirming that the committee complied with the auditor selection requirements. If the Auditor General determines that an entity failed to comply with the requirements in selecting an auditor, the entity shall select a replacement auditor to conduct audits for the subsequent fiscal years(s) remaining in the contract.

***The Florida Virtual School (Section 35)***

*Present Situation:* The Florida Virtual School<sup>40</sup> was created to develop and deliver online and distance learning. The Commissioner of Education is charged with monitoring the Florida Virtual School. In pertinent part, the law requires the board of trustees to submit an annual report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education. The report is required to address: operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global; marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology; assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year; a copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General; recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global; and recommendations regarding an accountability mechanism to assess the

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<sup>39</sup> The entities are: the governing body of a charter county, municipality, special district, district school board, charter school, or charter technical career center.

<sup>40</sup> Section 100.37, F.S.

effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.<sup>41</sup>

The Auditor General is required to conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global. The scope of the audit must include, but not be limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and standards; and accountability. The final report on the audit shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.

*Effect of the Bill:* The bill amends s. 1002.37, F.S. to eliminate the requirement that the Auditor General conduct an operation audit and report to the President of the Senate and the Speaker of the House of Representatives by January 31, 2014. That provision is replaced with requiring the Florida Virtual School to have an annual financial audit of its accounts and records completed by an independent auditor who is a licensed certified public accountant. The independent auditor must conduct the audit in accordance with the rules adopted by the Auditor General governing such audits. The audit report is required to include a written statement of the board of trustees describing corrective action to be taken in response to each of the independent auditor's recommendations. Upon completion of the audits, the independent auditor is required to submit an audit report to the board of trustees and the Auditor General no later than 9 months after the end of the prior fiscal year. The bill also makes conforming changes to the annual report provided to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education, by requiring a copy of the audit report be submitted with the annual statement.

### ***Required Audits of Certain Educational Institutions (Section 37)***

*Present Situation:* Section 1010.30(1), F.S., provides that school districts, Florida College System institutions, and other institutions and agencies under the supervision of the State Board of Education and state universities under the supervision of the Board of Governors are subject to the audit provisions of ss. 11.45 and 218.39, F.S. If an audit contains a significant finding, the district school board, the Florida College System institution board of trustees, or the university board of trustees shall conduct an audit overview during a public meeting.<sup>42</sup>

*Effect of the Bill:* The bill amends s. 1010.30, F.S., to require that if any audit report includes a recommendation that was previously included in the preceding financial audit report, the district school board, the Florida College System institution board of trustees, or the university board of trustees, must indicate its intent regarding corrective action, the corrective action to be taken, and when the corrective action will occur within 60 days after the delivery of the audit report. This response must occur during a regularly scheduled public meeting. If the district school board, Florida College System institution board of trustees, or university board of trustees does not intend to take corrective action, it shall explain why such action will not be taken at the regularly scheduled public meeting.

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<sup>41</sup> Section 1002.37(6), F.S.

<sup>42</sup> Section 1010.30(2), F.S.



## **Other Provisions**

### ***Florida Clerk of Courts Corporation (Section 4)***

*Present Situation:* Currently, s. 28.35, F.S., requires the Florida Clerk of Courts Corporation (corporation) to develop and certify a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards must be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation shall develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. The corporation shall notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans.

*Effect of the Bill:* The bill amends s. 28.35, F.S., to require the Florida Clerk of Courts Corporation to notify the Legislature of any clerk not meeting the workload performance standards and provide a copy of any corrective action plans within 45 days after the end of each quarter. For purposes of s. 28.35, F.S., the quarters end on the last day of March, June, September, and December of each year.

### ***Transparency in Government Spending (Section 19)***

*Present Situation:* The Transparency Florida Act (Act), located in s. 215.985, F.S., requires the Governor, in consultation with the appropriations committees of the House and Senate, to maintain a central website providing access to all other websites required to be linked under the Act. That law requires certain budget information to be readily available online, certain contract information, and minimum functionality standards. In pertinent part, s. 215.985(11), F.S., requires: “Each water management district shall provide a monthly financial statement to its governing board and make such statement available for public access on its website.”

*Effect of the Bill:* The bill amends s. 215.985, F.S., to require the monthly financial statement to be in the form and manner prescribed by the Department of Financial Services to the district’s governing board and make such monthly financial statement available to the public on its website.

### ***Financial Emergencies (Section 39)***

*Present Situation:* Local governmental entities, charter schools, charter technical career centers, and district school boards are subject to review and oversight by the Governor, the charter school sponsor, the charter technical career center sponsor, or the Commissioner of Education, as appropriate, under certain circumstances.<sup>43</sup> If a financial emergency occurs, the Governor or the Commissioner of Education must contact the entity to determine what steps have been taken to rectify, resolve, or prevent the financial emergency. Any information requested must be provided

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<sup>43</sup> Section 218.503(1), F.S.

within 45 days. If the local governmental entity or the district school board does not comply with the request, the Governor or Commissioner of Education must notify the *members* of the Legislative Auditing Committee who may take action pursuant to s. 11.40, F.S. The Governor or the Commissioner of Education must then determine whether the entity needs state assistance. If so, the entity is considered to be in a state of financial emergency. The Governor or the Commissioner of Education then has the authority to take steps to resolve the financial emergency.<sup>44</sup>

*Effect of the Bill:* The bill amends s. 218.503, F.S., to provide that the Governor, or his or her designee, or the Commissioner of Education, or his or her designee, must notify the Legislative Auditing Committee instead of notifying the members of the Legislative Auditing Committee.

***Reasonable Opportunity to be Heard at Public Meetings (Section 24)***

*Present Situation:* Section 286.0114, F.S., requires, with certain exceptions, that the public be provided a reasonable opportunity to be heard. That section prescribes the general process and permits entities to prescribe how public comment is made and certain reasonable limitations. The law also provides for the availability of attorney fees.

*Effect of the Bill:* The bill amends s. 286.0114, F.S., to clarify that a member of the public is not required to provide an advance written copy of his or her testimony or comments as a precondition to being given the opportunity to be heard.

The bill provides an effective date of October 1, 2016.

**IV. Constitutional Issues:**

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

Article VII, Section 18, Florida Constitution, excuses local governments from complying with state mandates which impose negative fiscal consequences. Subsection (a) provides, “[n]o county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds” unless certain requirements are met. However, several exemptions and exceptions exist. Subsection (a) of Art. VII, Sec. 18, Florida Constitution, contains an exemption for laws having an insignificant fiscal impact and an exception for laws which apply to all persons similarly situated.

The bill appears to require counties and municipalities to expend an unknown amount of funds in order to establish and maintain specified internal controls. However, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. Furthermore, the bill appears to apply to all persons similarly situated; therefore an exception may apply which would make the provisions of this bill enforceable against local governments. Section 47 provides that the Legislature determines and declares that this bill fulfills an important state interest.

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<sup>44</sup> Section 218.503(3), F.S.

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

The bill requires members of the public to register as a lobbyist when lobbying a specified unit of local government. Current law authorizes a fee for each registration, which may not exceed \$40.

**C. Government Sector Impact:**

The bill requires state agencies, the judicial branch, local governments, district school boards, charter schools, school districts, state colleges and universities, and the Justice Administration Commission to establish specified internal controls. Such requirement may require additional time and expense to create the internal controls.

The bill amends provisions related to the prohibition against extra compensation. The bill requires investigations of allegations and repayment of any prohibited compensation.

**VI. Technical Deficiencies:**

Sections 5, 21, 33, 34, and 36 all require compliance with best practices. Section 17 does not require compliance with best practices. It is unclear whether the phrase was intentionally omitted.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates sections 20.602 and 112.3126 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 11.40, 11.45, 28.35, 43.16, 112.313, 112.3144, 112.31455, 112.3261, 129.03, 129.06, 166.241, 189.016, 215.425, 215.86, 215.97, 215.985, 218.32, 218.33, 218.39, 218.391, 286.0114, 288.92, 288.9604, 373.536, 838.014, 838.015, 838.016, 838.022, 838.22, 1001.42, 1002.33, 1002.37, 1010.01, 1010.30, 99.061, 218.503, and 1002.455.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Governmental Oversight and Accountability on February 9, 2016:**

- Deletes provisions regarding previous title of bill, legislative branch lobbying, executive branch lobbying, and investigations by the Commission on Ethics;
- Deletes provision regarding electronic filing of compensation reports and other information;
- Revises provisions regarding employment of members of the Legislature;
- Revises the definition of “public contractor;”
- Deletes the provisions expanding the offenses of bribery and unlawful compensation or reward for official behavior to include public contractors;
- Deletes provision renaming bid tampering offense as unlawful influence of the competitive solicitation process;
- Deletes provision regarding compliance with best practices for state agencies and judicial branch for internal controls to prevent fraud, waste, and abuse;
- Authorizes district school board members to visit schools, observe the management and instruction, give suggestions for improvement, and advise citizens with the view of promoting interest in education and improving the school;
- Revises the definition of “public funds” for extra compensation claims;
- Deletes various provisions regarding rewards and prosecution of extra compensation payments;
- Revises notification and consideration requirements for employees who meet criteria for a bonus scheme;
- Requires a unit of government or state university to consider various factors in determining amount of severance pay and provides existence of contract does not limit application of this provision;
- Deletes provisions regarding false claims against the state and civil actions for false claims;
- Amends ss. 112.534 and 117.01, F.S., relating to failure to comply; official misconduct, and regulation of notary publics, respectively, to incorporate by reference revisions made by this act;
- Reenacts s. 921.022(3)(d), F.S., relating to criminal punishment code; offense severity chart, to incorporate by reference revisions made by this act; and
- Authorizes the Commission on Ethics to render advisory opinions to any public officer, candidate for public office, or public employee regarding application of code of ethics for public officers and employees.

**CS by Ethics and Elections on January 12, 2016:**

- Requires legislative branch lobbyists to file a monthly report detailing which bills or appropriations that they have attempted to support, oppose, or influence;
- Authorizes fines of \$50 per day up to a maximum of \$5,000 for failing to timely file the monthly reports and provides grounds for waiving the fines;

- Prohibits lobbying the Department of Economic Opportunity and its various divisions, units and corporations (including the Florida Development Finance Corporation) for a period of 2 years instead of 6 years;
- Prohibits legislators from accepting certain employment while in office;
- Authorizes the Commission on Ethics to initiate investigations under certain circumstances by a super-majority vote;
- Clarifies which sources of funds are permissible to use to pay additional compensation or severance pay in excess of those authorized by statute to public employees;
- Defines “public contractor” and removes the definition of “nongovernmental entity” from the bill in s. 838.014, F.S.; and
- Applies the offenses of bribery, unlawful compensation or reward for official behavior, official misconduct, and unlawful influence in the competitive solicitation process to “public contractors.”

B. Amendments:

None.

**By** the Committees on Governmental Oversight and Accountability;  
and Ethics and Elections; and Senator Gaetz

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1                                   A bill to be entitled  
2           An act relating to government accountability; amending  
3           s. 11.40, F.S.; specifying that the Governor, the  
4           Commissioner of Education, or the designee of the  
5           Governor or of the Commissioner of Education may  
6           notify the Legislative Auditing Committee of an  
7           entity's failure to comply with certain auditing and  
8           financial reporting requirements; amending s. 11.45,  
9           F.S.; defining the terms "abuse," "fraud," and  
10          "waste"; revising the definition of the term "local  
11          governmental entity"; excluding water management  
12          districts from certain audit requirements; removing a  
13          cross-reference; authorizing the Auditor General to  
14          conduct audits of tourist development councils and  
15          county tourism promotion agencies; revising reporting  
16          requirements applicable to the Auditor General;  
17          creating s. 20.602, F.S.; specifying the applicability  
18          of certain provisions of the Code of Ethics for Public  
19          Officers and Employees to officers and board members  
20          of corporate entities associated with the Department  
21          of Economic Opportunity; prohibiting such officers and  
22          board members from representing a person or an entity  
23          for compensation before certain bodies for a specified  
24          timeframe; providing for construction; amending s.  
25          28.35, F.S.; revising reporting requirements  
26          applicable to the Florida Clerks of Court Operations  
27          Corporation; amending s. 43.16, F.S.; revising the  
28          responsibilities of the Justice Administrative  
29          Commission, each state attorney, each public defender,  
30          a criminal conflict and civil regional counsel, a  
31          capital collateral regional counsel, and the Guardian

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32 Ad Litem Program, to include the establishment and  
33 maintenance of certain internal controls; creating s.  
34 112.3126, F.S.; defining the term "private entity";  
35 prohibiting a member of the Legislature or a candidate  
36 for legislative office from accepting employment with  
37 a private entity that directly receives funding  
38 through state revenues under certain circumstances;  
39 authorizing employment with a private entity if  
40 certain conditions are met; amending s. 112.313, F.S.;  
41 specifying that prohibitions on conflicting employment  
42 or contractual relationships for public officers or  
43 employees of an agency apply to contractual  
44 relationships held by certain business entities;  
45 amending s. 112.3144, F.S.; requiring elected  
46 municipal officers to file a full and public  
47 disclosure of financial interests, rather than a  
48 statement of financial interests; providing for  
49 applicability; amending s. 112.31455, F.S.; revising  
50 provisions governing collection methods for unpaid  
51 automatic fines for failure to timely file disclosure  
52 of financial interests to include school districts;  
53 amending s. 112.3261, F.S.; revising terms to conform  
54 to changes made by the act; expanding the types of  
55 governmental entities that are subject to lobbyist  
56 registration requirements; requiring a governmental  
57 entity to create a lobbyist registration form;  
58 amending ss. 129.03, 129.06, 166.241, and 189.016,  
59 F.S.; requiring counties, municipalities, and special  
60 districts to maintain certain budget documents on the

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61 entities' websites for a specified period; amending s.  
62 215.425, F.S.; defining the term "public funds";  
63 revising exceptions to the prohibition on extra  
64 compensation claims; revising minimum requirements for  
65 any policy, ordinance, rule, or resolution designed to  
66 implement a bonus scheme; requiring certain contracts  
67 into which a unit of government or state university  
68 enters to contain certain provisions regarding  
69 severance pay; requiring a unit of government to  
70 investigate and take reasonable action to recover  
71 prohibited compensation; specifying methods of  
72 recovery for unintentional and willful violations;  
73 specifying applicability of procedures regarding  
74 suspension and removal of an officer who commits a  
75 willful violation; specifying circumstances under  
76 which an employee has a cause of action under the  
77 Whistle-blower's Act; providing for applicability;  
78 amending s. 215.86, F.S.; revising the purposes for  
79 which management systems and internal controls must be  
80 established and maintained by each state agency and  
81 the judicial branch; amending s. 215.97, F.S.;  
82 revising the definition of the term "audit threshold";  
83 amending s. 215.985, F.S.; revising the requirements  
84 for a monthly financial statement provided by a water  
85 management district; amending s. 218.32, F.S.;  
86 revising the requirements of the annual financial  
87 audit report of a local governmental entity;  
88 authorizing the Department of Financial Services to  
89 request additional information from a local



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90 governmental entity; requiring a local governmental  
91 entity to respond to such requests within a specified  
92 timeframe; requiring the department to notify the  
93 Legislative Auditing Committee of noncompliance;  
94 amending s. 218.33, F.S.; requiring local governmental  
95 entities to establish and maintain internal controls  
96 to achieve specified purposes; amending s. 218.39,  
97 F.S.; requiring an audited entity to respond to audit  
98 recommendations under specified circumstances;  
99 amending s. 218.391, F.S.; revising the composition of  
100 an audit committee; prohibiting an audit committee  
101 member from being an employee, a chief executive  
102 officer, or a chief financial officer of the  
103 respective governmental entity; requiring the chair of  
104 an audit committee to sign and execute an affidavit  
105 affirming compliance with auditor selection  
106 procedures; prescribing procedures in the event of  
107 noncompliance with auditor selection procedures;  
108 amending s. 286.0114, F.S.; prohibiting a board or  
109 commission from requiring an advance copy of testimony  
110 or comments from a member of the public as a  
111 precondition to being given the opportunity to be  
112 heard at a public meeting; amending s. 288.92, F.S.;  
113 prohibiting specified officers and board members of  
114 Enterprise Florida, Inc., from representing a person  
115 or entity for compensation before Enterprise Florida,  
116 Inc., and associated entities thereof, for a specified  
117 timeframe; amending s. 288.9604, F.S.; prohibiting a  
118 director of the Florida Development Finance

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119 Corporation from representing a person or an entity  
120 for compensation before the corporation for a  
121 specified timeframe; amending s. 373.536, F.S.;  
122 deleting obsolete language; requiring water management  
123 districts to maintain certain budget documents on the  
124 districts' websites for a specified period; amending  
125 s. 838.014, F.S.; revising and providing definitions;  
126 amending s. 838.015, F.S.; revising the definition of  
127 the term "bribery"; revising requirements for  
128 prosecution; amending s. 838.016, F.S.; revising the  
129 prohibition against unlawful compensation or reward  
130 for official behavior to conform to changes made by  
131 the act; amending s. 838.022, F.S.; revising the  
132 prohibition against official misconduct to conform to  
133 changes made by the act; revising applicability of the  
134 offense to include public contractors; amending s.  
135 838.22, F.S.; revising the prohibition against bid  
136 tampering to conform to changes made by the act;  
137 revising applicability of the offense to include  
138 specified public contractors; amending s. 1001.42,  
139 F.S.; authorizing additional internal audits as  
140 directed by the district school board; specifying  
141 duties of the district school board regarding  
142 visitation of schools; amending s. 1002.33, F.S.;  
143 revising the responsibilities of the governing board  
144 of a charter school to include the establishment and  
145 maintenance of internal controls; amending s. 1002.37,  
146 F.S.; requiring completion of an annual financial  
147 audit of the Florida Virtual School; specifying audit

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148 requirements; requiring an audit report to be  
149 submitted to the board of trustees of the Florida  
150 Virtual School and the Auditor General; removing  
151 obsolete provisions; amending s. 1010.01, F.S.;  
152 requiring each school district, Florida College System  
153 institution, and state university to establish and  
154 maintain certain internal controls; amending s.  
155 1010.30, F.S.; requiring a district school board,  
156 Florida College System institution board of trustees,  
157 or university board of trustees to respond to audit  
158 recommendations under certain circumstances; amending  
159 ss. 99.061, 218.503, and 1002.455, F.S.; conforming  
160 provisions and cross-references to changes made by the  
161 act; reenacting s. 112.534(2)(a), F.S., relating to  
162 official misconduct, and s. 117.01(4)(d), F.S.,  
163 relating to appointment, application, suspension,  
164 revocation, application fee, bond, and oath of  
165 notaries public, to incorporate the amendment made by  
166 the act to s. 838.022, F.S., in references thereto;  
167 reenacting s. 817.568(11), F.S., relating to criminal  
168 use of personal identification information, to  
169 incorporate the amendment made by the act to s.  
170 838.014, F.S., in a reference thereto; reenacting s.  
171 921.0022(3)(d) and (g), F.S., relating to the Criminal  
172 Punishment Code offense severity ranking chart, to  
173 incorporate the amendments made by the act to ss.  
174 838.015, 838.016, 838.022, and 838.22, F.S., in  
175 references thereto; providing for applicability;  
176 declaring that the act fulfills an important state

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177 interest; providing an effective date.

178  
179 Be It Enacted by the Legislature of the State of Florida:

180  
181 Section 1. Subsection (2) of section 11.40, Florida  
182 Statutes, is amended to read:

183 11.40 Legislative Auditing Committee.—

184 (2) Following notification by the Auditor General, the  
185 Department of Financial Services, ~~or~~ the Division of Bond  
186 Finance of the State Board of Administration, the Governor or  
187 his or her designee, or the Commissioner of Education or his or  
188 her designee of the failure of a local governmental entity,  
189 district school board, charter school, or charter technical  
190 career center to comply with the applicable provisions within s.  
191 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the  
192 Legislative Auditing Committee may schedule a hearing to  
193 determine if the entity should be subject to further state  
194 action. If the committee determines that the entity should be  
195 subject to further state action, the committee shall:

196 (a) In the case of a local governmental entity or district  
197 school board, direct the Department of Revenue and the  
198 Department of Financial Services to withhold any funds not  
199 pledged for bond debt service satisfaction which are payable to  
200 such entity until the entity complies with the law. The  
201 committee shall specify the date that such action must ~~shall~~  
202 begin, and the directive must be received by the Department of  
203 Revenue and the Department of Financial Services 30 days before  
204 the date of the distribution mandated by law. The Department of  
205 Revenue and the Department of Financial Services may implement

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206 ~~the provisions of~~ this paragraph.

207 (b) In the case of a special district created by:

208 1. A special act, notify the President of the Senate, the  
209 Speaker of the House of Representatives, the standing committees  
210 of the Senate and the House of Representatives charged with  
211 special district oversight as determined by the presiding  
212 officers of each respective chamber, the legislators who  
213 represent a portion of the geographical jurisdiction of the  
214 special district pursuant to s. 189.034(2), and the Department  
215 of Economic Opportunity that the special district has failed to  
216 comply with the law. Upon receipt of notification, the  
217 Department of Economic Opportunity shall proceed pursuant to s.  
218 189.062 or s. 189.067. If the special district remains in  
219 noncompliance after the process set forth in s. 189.034(3), or  
220 if a public hearing is not held, the Legislative Auditing  
221 Committee may request the department to proceed pursuant to s.  
222 189.067(3).

223 2. A local ordinance, notify the chair or equivalent of the  
224 local general-purpose government pursuant to s. 189.035(2) and  
225 the Department of Economic Opportunity that the special district  
226 has failed to comply with the law. Upon receipt of notification,  
227 the department shall proceed pursuant to s. 189.062 or s.  
228 189.067. If the special district remains in noncompliance after  
229 the process set forth in s. 189.034(3), or if a public hearing  
230 is not held, the Legislative Auditing Committee may request the  
231 department to proceed pursuant to s. 189.067(3).

232 3. Any manner other than a special act or local ordinance,  
233 notify the Department of Economic Opportunity that the special  
234 district has failed to comply with the law. Upon receipt of

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235 notification, the department shall proceed pursuant to s.  
236 189.062 or s. 189.067(3).

237 (c) In the case of a charter school or charter technical  
238 career center, notify the appropriate sponsoring entity, which  
239 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

240 Section 2. Subsection (1), paragraph (j) of subsection (2),  
241 paragraph (u) of subsection (3), and paragraph (i) of subsection  
242 (7) of section 11.45, Florida Statutes, are amended, and  
243 paragraph (x) is added to subsection (3) of that section, to  
244 read:

245 11.45 Definitions; duties; authorities; reports; rules.—

246 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

247 (a) "Abuse" means behavior that is deficient or improper  
248 when compared with behavior that a prudent person would consider  
249 a reasonable and necessary operational practice given the facts  
250 and circumstances. The term includes the misuse of authority or  
251 position for personal gain.

252 (b)~~(a)~~ "Audit" means a financial audit, operational audit,  
253 or performance audit.

254 (c)~~(b)~~ "County agency" means a board of county  
255 commissioners or other legislative and governing body of a  
256 county, however styled, including that of a consolidated or  
257 metropolitan government, a clerk of the circuit court, a  
258 separate or ex officio clerk of the county court, a sheriff, a  
259 property appraiser, a tax collector, a supervisor of elections,  
260 or any other officer in whom any portion of the fiscal duties of  
261 a body or officer expressly stated in this paragraph are ~~the~~  
262 ~~above are under law~~ separately placed by law.

263 (d)~~(e)~~ "Financial audit" means an examination of financial

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264 statements in order to express an opinion on the fairness with  
265 which they are presented in conformity with generally accepted  
266 accounting principles and an examination to determine whether  
267 operations are properly conducted in accordance with legal and  
268 regulatory requirements. Financial audits must be conducted in  
269 accordance with auditing standards generally accepted in the  
270 United States and government auditing standards as adopted by  
271 the Board of Accountancy. When applicable, the scope of  
272 financial audits must ~~shall~~ encompass the additional activities  
273 necessary to establish compliance with the Single Audit Act  
274 Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other  
275 applicable federal law.

276 (e) "Fraud" means obtaining something of value through  
277 willful misrepresentation, including, but not limited to, the  
278 intentional misstatements or omissions of amounts or disclosures  
279 in financial statements to deceive users of financial  
280 statements, theft of an entity's assets, bribery, or the use of  
281 one's position for personal enrichment through the deliberate  
282 misuse or misapplication of an organization's resources.

283 (f)(d) "Governmental entity" means a state agency, a county  
284 agency, or any other entity, however styled, that independently  
285 exercises any type of state or local governmental function.

286 (g)(e) "Local governmental entity" means a county agency,  
287 municipality, tourist development council, county tourism  
288 promotion agency, or special district as defined in s. 189.012.  
289 The term, ~~but~~ does not include any housing authority established  
290 under chapter 421.

291 (h)(f) "Management letter" means a statement of the  
292 auditor's comments and recommendations.

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293        (i)~~(g)~~ "Operational audit" means an audit whose purpose is  
294 to evaluate management's performance in establishing and  
295 maintaining internal controls, including controls designed to  
296 prevent and detect fraud, waste, and abuse, and in administering  
297 assigned responsibilities in accordance with applicable laws,  
298 administrative rules, contracts, grant agreements, and other  
299 guidelines. Operational audits must be conducted in accordance  
300 with government auditing standards. Such audits examine internal  
301 controls that are designed and placed in operation to promote  
302 and encourage the achievement of management's control objectives  
303 in the categories of compliance, economic and efficient  
304 operations, reliability of financial records and reports, and  
305 safeguarding of assets, and identify weaknesses in those  
306 internal controls.

307        (j)~~(h)~~ "Performance audit" means an examination of a  
308 program, activity, or function of a governmental entity,  
309 conducted in accordance with applicable government auditing  
310 standards or auditing and evaluation standards of other  
311 appropriate authoritative bodies. The term includes an  
312 examination of issues related to:

- 313            1. Economy, efficiency, or effectiveness of the program.
- 314            2. Structure or design of the program to accomplish its  
315 goals and objectives.
- 316            3. Adequacy of the program to meet the needs identified by  
317 the Legislature or governing body.
- 318            4. Alternative methods of providing program services or  
319 products.
- 320            5. Goals, objectives, and performance measures used by the  
321 agency to monitor and report program accomplishments.



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322           6. The accuracy or adequacy of public documents, reports,  
323 or requests prepared under the program by state agencies.

324           7. Compliance of the program with appropriate policies,  
325 rules, or laws.

326           8. Any other issues related to governmental entities as  
327 directed by the Legislative Auditing Committee.

328           ~~(k)(i)~~ "Political subdivision" means a separate agency or  
329 unit of local government created or established by law and  
330 includes, but is not limited to, the following and the officers  
331 thereof: authority, board, branch, bureau, city, commission,  
332 consolidated government, county, department, district,  
333 institution, metropolitan government, municipality, office,  
334 officer, public corporation, town, or village.

335           ~~(l)(j)~~ "State agency" means a separate agency or unit of  
336 state government created or established by law and includes, but  
337 is not limited to, the following and the officers thereof:  
338 authority, board, branch, bureau, commission, department,  
339 division, institution, office, officer, or public corporation,  
340 as the case may be, except any such agency or unit within the  
341 legislative branch of state government other than the Florida  
342 Public Service Commission.

343           (m) "Waste" means the act of using or expending resources  
344 unreasonably, carelessly, extravagantly, or for no useful  
345 purpose.

346           (2) DUTIES.—The Auditor General shall:

347           (j) Conduct audits of local governmental entities when  
348 determined to be necessary by the Auditor General, when directed  
349 by the Legislative Auditing Committee, or when otherwise  
350 required by law. No later than 18 months after the release of

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351 the audit report, the Auditor General shall perform such  
352 appropriate followup procedures as he or she deems necessary to  
353 determine the audited entity's progress in addressing the  
354 findings and recommendations contained within the Auditor  
355 General's previous report. The Auditor General shall notify each  
356 member of the audited entity's governing body and the  
357 Legislative Auditing Committee of the results of his or her  
358 determination. For purposes of this paragraph, local  
359 governmental entities do not include water management districts.

360

361 The Auditor General shall perform his or her duties  
362 independently but under the general policies established by the  
363 Legislative Auditing Committee. This subsection does not limit  
364 the Auditor General's discretionary authority to conduct other  
365 audits or engagements of governmental entities as authorized in  
366 subsection (3).

367 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor  
368 General may, pursuant to his or her own authority, or at the  
369 direction of the Legislative Auditing Committee, conduct audits  
370 or other engagements as determined appropriate by the Auditor  
371 General of:

372 (u) The Florida Virtual School ~~pursuant to s. 1002.37.~~

373 (x) Tourist development councils and county tourism  
374 promotion agencies.

375 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

376 (i) The Auditor General shall annually transmit by July 15,  
377 to the President of the Senate, the Speaker of the House of  
378 Representatives, and the Department of Financial Services, a  
379 list of all school districts, charter schools, charter technical

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380 career centers, Florida College System institutions, state  
381 universities, and local governmental entities ~~water management~~  
382 ~~districts~~ that have failed to comply with the transparency  
383 requirements as identified in the audit reports reviewed  
384 pursuant to paragraph (b) and those conducted pursuant to  
385 subsection (2).

386 Section 3. Section 20.602, Florida Statutes, is created to  
387 read:

388 20.602 Standards of conduct; officers and board members of  
389 Department of Economic Opportunity corporate entities.-

390 (1) The following officers and board members are subject to  
391 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and  
392 112.3143(2):

393 (a) Officers and members of the board of directors of:

394 1. Any corporation created under chapter 288;

395 2. Space Florida;

396 3. CareerSource Florida, Inc., or the programs or entities  
397 created by CareerSource Florida, Inc., pursuant to s. 445.004;

398 4. The Florida Housing Finance Corporation; or

399 5. Any other corporation created by the Department of  
400 Economic Opportunity in accordance with its powers and duties  
401 under s. 20.60.

402 (b) Officers and members of the board of directors of a  
403 corporate parent or subsidiary corporation of a corporation  
404 described in paragraph (a).

405 (c) Officers and members of the board of directors of a  
406 corporation created to carry out the missions of a corporation  
407 described in paragraph (a).

408 (d) Officers and members of the board of directors of a

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409 corporation with which a corporation described in paragraph (a)  
410 is required by law to contract with to carry out its missions.

411 (2) For purposes of applying ss. 112.313(1)-(8), (10),  
412 (12), and (15); 112.3135; and 112.3143(2) to activities of the  
413 officers and members of the board of directors specified in  
414 subsection (1), those persons shall be considered public  
415 officers or employees and the corporation shall be considered  
416 their agency.

417 (3) For a period of 2 years after retirement from or  
418 termination of service, or for a period of 10 years if removed  
419 or terminated for cause or for misconduct, as defined in s.  
420 443.036(29), an officer or a member of the board of directors  
421 specified in subsection (1) may not represent another person or  
422 entity for compensation before:

423 (a) His or her corporation;

424 (b) A division, a subsidiary, or the board of directors of  
425 a corporation created to carry out the mission of his or her  
426 corporation; or

427 (c) A corporation with which the corporation is required by  
428 law to contract to carry out its missions.

429 (4) This section does not supersede any additional or more  
430 stringent standards of conduct applicable to an officer or a  
431 member of the board of directors of an entity specified in  
432 subsection (1) prescribed by any other provision of law.

433 Section 4. Paragraph (d) of subsection (2) of section  
434 28.35, Florida Statutes, is amended to read:

435 28.35 Florida Clerks of Court Operations Corporation.—

436 (2) The duties of the corporation shall include the  
437 following:

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438 (d) Developing and certifying a uniform system of workload  
439 measures and applicable workload standards for court-related  
440 functions as developed by the corporation and clerk workload  
441 performance in meeting the workload performance standards. These  
442 workload measures and workload performance standards shall be  
443 designed to facilitate an objective determination of the  
444 performance of each clerk in accordance with minimum standards  
445 for fiscal management, operational efficiency, and effective  
446 collection of fines, fees, service charges, and court costs. The  
447 corporation shall develop the workload measures and workload  
448 performance standards in consultation with the Legislature. When  
449 the corporation finds a clerk has not met the workload  
450 performance standards, the corporation shall identify the nature  
451 of each deficiency and any corrective action recommended and  
452 taken by the affected clerk of the court. For quarterly periods  
453 ending on the last day of March, June, September, and December  
454 of each year, the corporation shall notify the Legislature of  
455 any clerk not meeting workload performance standards and provide  
456 a copy of any corrective action plans. Such notifications shall  
457 be submitted no later than 45 days after the end of the  
458 preceding quarterly period. As used in this subsection, the  
459 term:

460 1. "Workload measures" means the measurement of the  
461 activities and frequency of the work required for the clerk to  
462 adequately perform the court-related duties of the office as  
463 defined by the membership of the Florida Clerks of Court  
464 Operations Corporation.

465 2. "Workload performance standards" means the standards  
466 developed to measure the timeliness and effectiveness of the

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467 activities that are accomplished by the clerk in the performance  
468 of the court-related duties of the office as defined by the  
469 membership of the Florida Clerks of Court Operations  
470 Corporation.

471 Section 5. Present subsections (6) and (7) of section  
472 43.16, Florida Statutes, are redesignated as subsections (7) and  
473 (8), respectively, and a new subsection (6) is added to that  
474 section, to read:

475 43.16 Justice Administrative Commission; membership, powers  
476 and duties.—

477 (6) The commission, each state attorney, each public  
478 defender, the criminal conflict and civil regional counsel, the  
479 capital collateral regional counsel, and the Guardian Ad Litem  
480 Program shall establish and maintain internal controls designed  
481 to:

482 (a) Prevent and detect fraud, waste, and abuse.

483 (b) Promote and encourage compliance with applicable laws,  
484 rules, contracts, grant agreements, and best practices.

485 (c) Support economical and efficient operations.

486 (d) Ensure reliability of financial records and reports.

487 (e) Safeguard assets.

488 Section 6. Section 112.3126, Florida Statutes, is created  
489 to read:

490 112.3126 Employment restrictions; legislators.—

491 (1) As used in this section, the term "private entity"  
492 means any nongovernmental entity, such as a corporation,  
493 partnership, company or nonprofit organization, any other legal  
494 entity, or any natural person.

495 (2) (a) A member of, or candidate for, the Legislature may

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496 not accept employment with a private entity that directly  
497 receives funding through state revenues appropriated by the  
498 General Appropriations Act if he or she knows, or with the  
499 exercise of reasonable care should know, that the position is  
500 being offered by the employer for the purpose of gaining  
501 influence or other advantage based on the legislator's office or  
502 candidacy. Any employment with a private entity that directly  
503 receives funding through state revenues appropriated by the  
504 General Appropriations Act accepted by a member or candidate  
505 must meet all of the following conditions:

506 1. The position was already in existence or was created by  
507 the employer without the knowledge or anticipation of the  
508 legislator's interest in such position;

509 2. The position was open to other applicants;

510 3. The legislator was subject to the same application and  
511 hiring process as other candidates for the position; and

512 4. The legislator meets or exceeds the required  
513 qualifications for the position.

514 (b) A member of the Legislature who is employed by such  
515 private entity before his or her legislative service begins may  
516 continue his or her employment. However, he or she may not  
517 accept promotion, advancement, additional compensation, or  
518 anything of value that he or she knows, or with the exercise of  
519 reasonable care should know, is provided or given to influence  
520 or attempt to influence his or her legislative office, or that  
521 is otherwise inconsistent with the promotion, advancement,  
522 additional compensation, or anything of value provided or given  
523 an employee who is similarly situated.

524 Section 7. Subsection (7) of section 112.313, Florida

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525 Statutes, is amended to read:

526 112.313 Standards of conduct for public officers, employees  
527 of agencies, and local government attorneys.—

528 (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

529 (a) A ~~No~~ public officer or employee of an agency may not  
530 ~~shall~~ have or hold any employment or contractual relationship  
531 with any business entity or any agency that ~~which~~ is subject to  
532 the regulation of, or is doing business with, an agency of which  
533 he or she is an officer or employee, excluding those  
534 organizations and their officers who, when acting in their  
535 official capacity, enter into or negotiate a collective  
536 bargaining contract with the state or any municipality, county,  
537 or other political subdivision of the state; and ~~nor shall~~ an  
538 officer or employee of an agency may not have or hold any  
539 employment or contractual relationship that will create a  
540 continuing or frequently recurring conflict between his or her  
541 private interests and the performance of his or her public  
542 duties or that would impede the full and faithful discharge of  
543 his or her public duties. For purposes of this subsection, if a  
544 public officer or employee of an agency holds a controlling  
545 interest in a business entity or is an officer, a director, or a  
546 member who manages such an entity, contractual relationships  
547 held by the business entity are deemed to be held by the public  
548 officer or employee.

549 1. When the agency referred to is a ~~that certain kind of~~  
550 special tax district created by general or special law and is  
551 limited specifically to constructing, maintaining, managing, and  
552 financing improvements in the land area over which the agency  
553 has jurisdiction, or when the agency has been organized pursuant



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554 to chapter 298, ~~then~~ employment with, or entering into a  
 555 contractual relationship with, such a business entity by a  
 556 public officer or employee of such an agency is ~~shall~~ not ~~be~~  
 557 prohibited by this subsection or ~~be~~ deemed a conflict per se.  
 558 However, conduct by such officer or employee that is prohibited  
 559 by, or otherwise frustrates the intent of, this section must  
 560 ~~shall~~ be deemed a conflict of interest in violation of the  
 561 standards of conduct set forth by this section.

562 2. When the agency referred to is a legislative body and  
 563 the regulatory power over the business entity resides in another  
 564 agency, or when the regulatory power that ~~which~~ the legislative  
 565 body exercises over the business entity or agency is strictly  
 566 through the enactment of laws or ordinances, ~~then~~ employment or  
 567 a contractual relationship with such a business entity by a  
 568 public officer or employee of a legislative body is ~~shall~~ not ~~be~~  
 569 prohibited by this subsection or ~~be~~ deemed a conflict.

570 (b) This subsection does ~~shall~~ not prohibit a public  
 571 officer or employee from practicing in a particular profession  
 572 or occupation when such practice by persons holding such public  
 573 office or employment is required or permitted by law or  
 574 ordinance.

575 Section 8. Subsections (1) and (2) of section 112.3144,  
 576 Florida Statutes, are amended to read:

577 112.3144 Full and public disclosure of financial  
 578 interests.—

579 (1) In addition to officers specified in s. 8, Art. II of  
 580 the State Constitution or other state law, all elected municipal  
 581 officers are required to file a full and public disclosure of  
 582 their financial interests. An officer who is required ~~by s. 8,~~

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583 ~~Art. II of the State Constitution~~ to file a full and public  
584 disclosure of ~~his or her~~ financial interests for any calendar or  
585 fiscal year shall file that disclosure with the ~~Florida~~  
586 Commission on Ethics. ~~Additionally, beginning January 1, 2015,~~  
587 An officer who is required to complete annual ethics training  
588 pursuant to s. 112.3142 must certify on his or her full and  
589 public disclosure of financial interests that he or she has  
590 completed the required training.

591 (2) A person who is required, ~~pursuant to s. 8, Art. II of~~  
592 ~~the State Constitution,~~ to file a full and public disclosure of  
593 financial interests and who has filed a full and public  
594 disclosure of financial interests for any calendar or fiscal  
595 year is ~~shall~~ not be required to file a statement of financial  
596 interests pursuant to s. 112.3145(2) and (3) for the same year  
597 or for any part thereof notwithstanding any requirement of this  
598 part. If an incumbent in an elective office has filed the full  
599 and public disclosure of financial interests to qualify for  
600 election to the same office or if a candidate for office holds  
601 another office subject to the annual filing requirement, the  
602 qualifying officer shall forward an electronic copy of the full  
603 and public disclosure of financial interests to the commission  
604 no later than July 1. The electronic copy of the full and public  
605 disclosure of financial interests satisfies the annual  
606 disclosure requirement of this section. A candidate who does not  
607 qualify until after the annual full and public disclosure of  
608 financial interests has been filed pursuant to this section  
609 shall file a copy of his or her disclosure with the officer  
610 before whom he or she qualifies.

611 Section 9. The amendment made to s. 112.3144, Florida

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612 Statutes, by this act applies to disclosures filed for the 2016  
613 calendar year and all subsequent calendar years.

614 Section 10. Subsection (1) of section 112.31455, Florida  
615 Statutes, is amended to read:

616 112.31455 Collection methods for unpaid automatic fines for  
617 failure to timely file disclosure of financial interests.—

618 (1) Before referring any unpaid fine accrued pursuant to s.  
619 112.3144(5) or s. 112.3145(7) to the Department of Financial  
620 Services, the commission shall attempt to determine whether the  
621 individual owing such a fine is a current public officer or  
622 current public employee. If so, the commission may notify the  
623 Chief Financial Officer or the governing body of the appropriate  
624 county, municipality, school district, or special district of  
625 the total amount of any fine owed to the commission by such  
626 individual.

627 (a) After receipt and verification of the notice from the  
628 commission, the Chief Financial Officer or the governing body of  
629 the county, municipality, school district, or special district  
630 shall begin withholding the lesser of 10 percent or the maximum  
631 amount allowed under federal law from any salary-related  
632 payment. The withheld payments shall be remitted to the  
633 commission until the fine is satisfied.

634 (b) The Chief Financial Officer or the governing body of  
635 the county, municipality, school district, or special district  
636 may retain an amount of each withheld payment, as provided in s.  
637 77.0305, to cover the administrative costs incurred under this  
638 section.

639 Section 11. Section 112.3261, Florida Statutes, is amended  
640 to read:

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641 112.3261 Lobbying before governmental entities ~~water~~  
642 ~~management districts~~; registration and reporting.—

643 (1) As used in this section, the term:

644 (a) "Governmental entity" or "entity" ~~"District"~~ means a  
645 water management district created in s. 373.069 and operating  
646 under the authority of chapter 373, a hospital district, a  
647 children's services district, an expressway authority as the  
648 term "authority" is defined in s. 348.0002, the term "port  
649 authority" as defined in s. 315.02, a county or municipality  
650 that has not adopted lobbyist registration and reporting  
651 requirements, or an independent special district with annual  
652 revenues of more than \$5 million which exercises ad valorem  
653 taxing authority.

654 (b) "Lobbies" means seeking, on behalf of another person,  
655 to influence a governmental entity ~~district~~ with respect to a  
656 decision of the entity ~~district~~ in an area of policy or  
657 procurement or an attempt to obtain the goodwill of an a  
658 ~~district~~ official or employee of a governmental entity. The term  
659 "lobbies" shall be interpreted and applied consistently with the  
660 rules of the commission implementing s. 112.3215.

661 (c) "Lobbyist" has the same meaning as provided in s.  
662 112.3215.

663 (d) "Principal" has the same meaning as provided in s.  
664 112.3215.

665 (2) A person may not lobby a governmental entity ~~district~~  
666 until such person has registered as a lobbyist with that entity  
667 ~~district~~. Such registration shall be due upon initially being  
668 retained to lobby and is renewable on a calendar-year basis  
669 thereafter. Upon registration, the person shall provide a

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670 statement signed by the principal or principal's representative  
671 stating that the registrant is authorized to represent the  
672 principal. The principal shall also identify and designate its  
673 main business on the statement authorizing that lobbyist  
674 pursuant to a classification system approved by the governmental  
675 entity ~~district~~. Any changes to the information required by this  
676 section must be disclosed within 15 days by filing a new  
677 registration form. The registration form must ~~shall~~ require each  
678 lobbyist to disclose, under oath, the following:

679 (a) The lobbyist's name and business address.

680 (b) The name and business address of each principal  
681 represented.

682 (c) The existence of any direct or indirect business  
683 association, partnership, or financial relationship with an  
684 official ~~any officer~~ or employee of a governmental entity  
685 ~~district~~ with which he or she lobbies or intends to lobby.

686 (d) A governmental entity shall create a lobbyist  
687 registration form modeled after the ~~In lieu of creating its own~~  
688 ~~lobbyist registration forms, a district may accept a completed~~  
689 ~~legislative branch or executive branch lobbyist registration~~  
690 ~~form, which must be returned to the governmental entity.~~

691 (3) A governmental entity ~~district~~ shall make lobbyist  
692 registrations available to the public. If a governmental entity  
693 ~~district~~ maintains a website, a database of currently registered  
694 lobbyists and principals must be available on the entity's  
695 ~~district's~~ website.

696 (4) A lobbyist shall promptly send a written statement to  
697 the governmental entity ~~district~~ canceling the registration for  
698 a principal upon termination of the lobbyist's representation of

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699 that principal. A governmental entity ~~district~~ may remove the  
700 name of a lobbyist from the list of registered lobbyists if the  
701 principal notifies the entity ~~district~~ that a person is no  
702 longer authorized to represent that principal.

703 (5) A governmental entity ~~district~~ may establish an annual  
704 lobbyist registration fee, not to exceed \$40, for each principal  
705 represented. The governmental entity ~~district~~ may use  
706 registration fees only to administer this section.

707 (6) A governmental entity ~~district~~ shall be diligent to  
708 ascertain whether persons required to register pursuant to this  
709 section have complied. A governmental entity ~~district~~ may not  
710 knowingly authorize a person who is not registered pursuant to  
711 this section to lobby the entity ~~district~~.

712 (7) Upon receipt of a sworn complaint alleging that a  
713 lobbyist or principal has failed to register with a governmental  
714 entity ~~district~~ or has knowingly submitted false information in  
715 a report or registration required under this section, the  
716 commission shall investigate a lobbyist or principal pursuant to  
717 the procedures established under s. 112.324. The commission  
718 shall provide the Governor with a report of its findings and  
719 recommendations in any investigation conducted pursuant to this  
720 subsection. The Governor is authorized to enforce the  
721 commission's findings and recommendations.

722 (8) A governmental entity ~~Water management districts~~ may  
723 adopt rules to establish procedures to govern the registration  
724 of lobbyists, including the adoption of forms and the  
725 establishment of a lobbyist registration fee.

726 Section 12. Paragraph (c) of subsection (3) of section  
727 129.03, Florida Statutes, is amended to read:

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728 129.03 Preparation and adoption of budget.—

729 (3) The county budget officer, after tentatively  
730 ascertaining the proposed fiscal policies of the board for the  
731 next fiscal year, shall prepare and present to the board a  
732 tentative budget for the next fiscal year for each of the funds  
733 provided in this chapter, including all estimated receipts,  
734 taxes to be levied, and balances expected to be brought forward  
735 and all estimated expenditures, reserves, and balances to be  
736 carried over at the end of the year.

737 (c) The board shall hold public hearings to adopt tentative  
738 and final budgets pursuant to s. 200.065. The hearings shall be  
739 primarily for the purpose of hearing requests and complaints  
740 from the public regarding the budgets and the proposed tax  
741 levies and for explaining the budget and any proposed or adopted  
742 amendments. The tentative budget must be posted on the county's  
743 official website at least 2 days before the public hearing to  
744 consider such budget and must remain on the website for at least  
745 45 days. The final budget must be posted on the website within  
746 30 days after adoption and must remain on the website for at  
747 least 2 years. The tentative budgets, adopted tentative budgets,  
748 and final budgets shall be filed in the office of the county  
749 auditor as a public record. Sufficient reference in words and  
750 figures to identify the particular transactions must ~~shall~~ be  
751 made in the minutes of the board to record its actions with  
752 reference to the budgets.

753 Section 13. Paragraph (f) of subsection (2) of section  
754 129.06, Florida Statutes, is amended to read:

755 129.06 Execution and amendment of budget.—

756 (2) The board at any time within a fiscal year may amend a

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757 budget for that year, and may within the first 60 days of a  
758 fiscal year amend the budget for the prior fiscal year, as  
759 follows:

760 (f) Unless otherwise prohibited by law, if an amendment to  
761 a budget is required for a purpose not specifically authorized  
762 in paragraphs (a)-(e), the amendment may be authorized by  
763 resolution or ordinance of the board of county commissioners  
764 adopted following a public hearing.

765 1. The public hearing must be advertised at least 2 days,  
766 but not more than 5 days, before the date of the hearing. The  
767 advertisement must appear in a newspaper of paid general  
768 circulation and must identify the name of the taxing authority,  
769 the date, place, and time of the hearing, and the purpose of the  
770 hearing. The advertisement must also identify each budgetary  
771 fund to be amended, the source of the funds, the use of the  
772 funds, and the total amount of each fund's appropriations.

773 2. If the board amends the budget pursuant to this  
774 paragraph, the adopted amendment must be posted on the county's  
775 official website within 5 days after adoption and must remain on  
776 the website for at least 2 years.

777 Section 14. Subsections (3) and (5) of section 166.241,  
778 Florida Statutes, are amended to read:

779 166.241 Fiscal years, budgets, and budget amendments.—

780 (3) The tentative budget must be posted on the  
781 municipality's official website at least 2 days before the  
782 budget hearing, held pursuant to s. 200.065 or other law, to  
783 consider such budget, and must remain on the website for at  
784 least 45 days. The final adopted budget must be posted on the  
785 municipality's official website within 30 days after adoption



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786 and must remain on the website for at least 2 years. If the  
787 municipality does not operate an official website, the  
788 municipality must, within a reasonable period of time as  
789 established by the county or counties in which the municipality  
790 is located, transmit the tentative budget and final budget to  
791 the manager or administrator of such county or counties who  
792 shall post the budgets on the county's website.

793 (5) If the governing body of a municipality amends the  
794 budget pursuant to paragraph (4)(c), the adopted amendment must  
795 be posted on the official website of the municipality within 5  
796 days after adoption and must remain on the website for at least  
797 2 years. If the municipality does not operate an official  
798 website, the municipality must, within a reasonable period of  
799 time as established by the county or counties in which the  
800 municipality is located, transmit the adopted amendment to the  
801 manager or administrator of such county or counties who shall  
802 post the adopted amendment on the county's website.

803 Section 15. Subsections (4) and (7) of section 189.016,  
804 Florida Statutes, are amended to read:

805 189.016 Reports; budgets; audits.—

806 (4) The tentative budget must be posted on the special  
807 district's official website at least 2 days before the budget  
808 hearing, held pursuant to s. 200.065 or other law, to consider  
809 such budget, and must remain on the website for at least 45  
810 days. The final adopted budget must be posted on the special  
811 district's official website within 30 days after adoption and  
812 must remain on the website for at least 2 years. If the special  
813 district does not operate an official website, the special  
814 district must, within a reasonable period of time as established

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815 by the local general-purpose government or governments in which  
816 the special district is located or the local governing authority  
817 to which the district is dependent, transmit the tentative  
818 budget or final budget to the manager or administrator of the  
819 local general-purpose government or the local governing  
820 authority. The manager or administrator shall post the tentative  
821 budget or final budget on the website of the local general-  
822 purpose government or governing authority. This subsection and  
823 subsection (3) do not apply to water management districts as  
824 defined in s. 373.019.

825 (7) If the governing body of a special district amends the  
826 budget pursuant to paragraph (6)(c), the adopted amendment must  
827 be posted on the official website of the special district within  
828 5 days after adoption and must remain on the website for at  
829 least 2 years. If the special district does not operate an  
830 official website, the special district must, within a reasonable  
831 period of time as established by the local general-purpose  
832 government or governments in which the special district is  
833 located or the local governing authority to which the district  
834 is dependent, transmit the adopted amendment to the manager or  
835 administrator of the local general-purpose government or  
836 governing authority. The manager or administrator shall post the  
837 adopted amendment on the website of the local general-purpose  
838 government or governing authority.

839 Section 16. Section 215.425, Florida Statutes, is amended  
840 to read:

841 215.425 Extra compensation claims prohibited; bonuses;  
842 severance pay.—

843 (1) As used in this section, the term "public funds" means

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844 any taxes, tuition, state grants, fines, fees, or other charges  
845 or any other type of revenue collected by the state or any  
846 county, municipality, special district, school district, Florida  
847 College System institution, state university, or other separate  
848 unit of government created pursuant to law, including any  
849 office, department, agency, division, subdivision, political  
850 subdivision, board, bureau, or commission of such entities.  
851 However, if the payment and receipt does not otherwise violate  
852 part III of chapter 112, the following are not considered public  
853 funds:

854 (a) Revenues received by the Board of Governors or state  
855 universities through or from faculty practice plans; health  
856 services support organizations; hospitals with which state  
857 universities are affiliated; direct-support organizations; or  
858 federal, auxiliary, or private sources, except for tuition.

859 (b) Revenues received by Florida College System  
860 institutions through or from faculty practice plans; health  
861 services support organizations; direct-support organizations; or  
862 federal, auxiliary, or private sources, except for tuition.

863 (c) Revenues that are received by a hospital licensed under  
864 chapter 395 which has entered into a Medicaid provider contract  
865 and that:

866 1. Are not derived from the levy of an ad valorem tax;

867 2. Are not derived from patient services paid through the  
868 Medicaid or Medicare program;

869 3. Are derived from patient services pursuant to contracts  
870 with private insurers or private managed care entities, or paid  
871 by the patient or private entities; or

872 4. Are not appropriated by the Legislature or by any

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873 county, municipality, special district, school district, Florida  
874 College System institution, state university, or other separate  
875 unit of government created pursuant to law, including any  
876 office, department, agency, division, subdivision, political  
877 subdivision, board, bureau, commission, authority, or  
878 institution of such entities, except for revenues otherwise  
879 authorized to be used pursuant to subparagraphs 2. and 3.

880 (d) A clothing and maintenance allowance given to  
881 plainclothes deputies pursuant to s. 30.49.

882 (e) Revenues or fees received by a seaport or airport from  
883 sources other than through the levy of a tax, or funds  
884 appropriated by any county or municipality or the Legislature.

885 (2)-(1) Except as provided in subsections (3) and (4), no  
886 extra compensation shall be made from public funds to any  
887 officer, agent, employee, or contractor after the service has  
888 been rendered or the contract made; nor shall any public funds  
889 money be appropriated or paid on any claim the subject matter of  
890 which has not been provided for by preexisting laws, unless such  
891 compensation or claim is allowed by a law enacted by two-thirds  
892 of the members elected to each house of the Legislature.

893 However, when adopting salary schedules for a fiscal year, a  
894 district school board or community college district board of  
895 trustees may apply the schedule for payment of all services  
896 rendered subsequent to July 1 of that fiscal year.

897 ~~(2) This section does not apply to:~~

898 ~~(a) a bonus or severance pay that is paid wholly from~~  
899 ~~nontax revenues and nonstate appropriated funds, the payment and~~  
900 ~~receipt of which does not otherwise violate part III of chapter~~  
901 ~~112, and which is paid to an officer, agent, employee, or~~

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902 ~~contractor of a public hospital that is operated by a county or~~  
903 ~~a special district; or~~

904 ~~(b) A clothing and maintenance allowance given to~~  
905 ~~plainclothes deputies pursuant to s. 30.49.~~

906 (3) Any policy, ordinance, rule, or resolution designed to  
907 implement a bonus scheme must:

908 (a) Base the award of a bonus on work performance;

909 (b) Describe the performance standards and evaluation  
910 process by which a bonus will be awarded;

911 (c) Notify all employees who meet the prescribed criteria  
912 for a particular bonus scheme of the policy, ordinance, rule, or  
913 resolution before the beginning of the evaluation period on  
914 which a bonus will be based; and

915 (d) Consider all employees who meet the prescribed criteria  
916 for a particular bonus scheme for the bonus.

917 (4) (a) ~~On or after July 1, 2011,~~ A unit of government, on  
918 or after July 1, 2011, or a state university, on or after July  
919 1, 2012, which ~~that~~ enters into a contract or employment  
920 agreement, or a renewal or renegotiation of an existing contract  
921 or employment agreement, which ~~that~~ contains a provision for  
922 severance pay with an officer, agent, employee, or contractor  
923 must include the following provisions in the contract:

924 1. A requirement that severance pay paid from public funds  
925 ~~provided~~ may not exceed an amount greater than 20 weeks of  
926 compensation.

927 2. A prohibition of provision of severance pay paid from  
928 public funds when the officer, agent, employee, or contractor  
929 has been fired for misconduct, as defined in s. 443.036(29), by  
930 the unit of government. However, the existence of a contract

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931 that includes a provision providing for severance pay does not  
932 limit the application of paragraph (b) to the settlement of a  
933 dispute.

934 (b) On or after July 1, 2011, an officer, agent, employee,  
935 or contractor may receive severance pay that is not provided for  
936 in a contract or employment agreement if the severance pay  
937 represents the settlement of an employment dispute. In  
938 determining the amount of severance pay that may be paid in  
939 accordance with this section, the unit of government or the  
940 state university shall consider the nature of the claim, the  
941 circumstances giving rise to the dispute, and the potential cost  
942 of resolving the dispute ~~Such severance pay may not exceed an~~  
943 ~~amount greater than 6 weeks of compensation.~~ The settlement may  
944 not include provisions that limit the ability of any party to  
945 the settlement to discuss the dispute or settlement.

946 (5) Any agreement or contract, ~~executed~~ executed on or after July 1,  
947 2011, which involves extra compensation between a unit of  
948 government and an officer, agent, employee, or contractor may  
949 not include provisions that limit the ability of any party to  
950 the agreement or contract to discuss the agreement or contract.

951 (6) Upon discovery or notification that a unit of  
952 government has provided prohibited compensation to any officer,  
953 agent, employee, or contractor in violation of this section,  
954 such unit of government shall investigate and take all  
955 reasonable action to recover the prohibited compensation.

956 (a) If the violation was unintentional, the unit of  
957 government shall take all reasonable action to recover the  
958 prohibited compensation from the individual receiving the  
959 prohibited compensation through normal recovery methods for

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960 overpayments.

961 (b) If the violation was willful, the unit of government  
962 shall take all reasonable action to recover the prohibited  
963 compensation from the individual receiving the prohibited  
964 compensation or the employee or employees of the unit of  
965 government who willfully violated this section. Each individual  
966 determined to have willfully violated this section is jointly  
967 and severally liable for repayment of the prohibited  
968 compensation.

969 (7) An officer who exercises the powers and duties of a  
970 state or county officer and willfully violates this section is  
971 subject to the Governor's power under s. 7(a), Art. IV of the  
972 State Constitution. An officer who exercises powers and duties  
973 other than those of a state or county officer and willfully  
974 violates this section is subject to the suspension and removal  
975 procedures under s. 112.51.

976 (8) An employee who is discharged, demoted, suspended,  
977 threatened, harassed, or in any manner discriminated against in  
978 the terms and conditions of employment by his or her employer  
979 because of lawful acts done by the employee on behalf of the  
980 employee or others in furtherance of an action under this  
981 section, including investigation for initiation of, testimony  
982 for, or assistance in an action filed or to be filed under this  
983 section, has a cause of action under s. 112.3187.

984 (9) Subsections (6), (7), and (8) apply prospectively to  
985 contracts and employment agreements, and the renewal or  
986 renegotiation of an existing contract or employment agreement,  
987 effective on or after October 1, 2016.

988 Section 17. Section 215.86, Florida Statutes, is amended to

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989 read:

990 215.86 Management systems and controls.—Each state agency  
991 and the judicial branch as defined in s. 216.011 shall establish  
992 and maintain management systems and internal controls designed  
993 to:

994 (1) Prevent and detect fraud, waste, and abuse. ~~that~~

995 (2) Promote and encourage compliance with applicable laws,  
996 rules, contracts, and grant agreements.†

997 (3) Support economical and ~~economic,~~ efficient, and  
998 effective operations.†

999 (4) Ensure reliability of financial records and reports.†

1000 (5) Safeguard and ~~safeguarding of~~ assets. Accounting  
1001 systems and procedures shall be designed to fulfill the  
1002 requirements of generally accepted accounting principles.

1003 Section 18. Paragraph (a) of subsection (2) of section  
1004 215.97, Florida Statutes, is amended to read:

1005 215.97 Florida Single Audit Act.—

1006 (2) Definitions; as used in this section, the term:

1007 (a) "Audit threshold" means the threshold amount used to  
1008 determine when a state single audit or project-specific audit of  
1009 a nonstate entity shall be conducted in accordance with this  
1010 section. Each nonstate entity that expends a total amount of  
1011 state financial assistance equal to or in excess of \$750,000  
1012 ~~\$500,000~~ in any fiscal year of such nonstate entity shall be  
1013 required to have a state single audit, or a project-specific  
1014 audit, for such fiscal year in accordance with the requirements  
1015 of this section. ~~Every 2 years the Auditor General,~~ After  
1016 consulting with the Executive Office of the Governor, the  
1017 Department of Financial Services, and all state awarding



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1018 agencies, the Auditor General shall periodically review the  
1019 threshold amount for requiring audits under this section and may  
1020 recommend any appropriate statutory change to revise the  
1021 threshold amount in the annual report submitted pursuant to s.  
1022 11.45(7) (h) to the Legislature ~~may adjust such threshold amount~~  
1023 ~~consistent with the purposes of this section.~~

1024 Section 19. Subsection (11) of section 215.985, Florida  
1025 Statutes, is amended to read:

1026 215.985 Transparency in government spending.—

1027 (11) Each water management district shall provide a monthly  
1028 financial statement in the form and manner prescribed by the  
1029 Department of Financial Services to the district's ~~its~~ governing  
1030 board and make such monthly financial statement available for  
1031 public access on its website.

1032 Section 20. Paragraph (d) of subsection (1) and subsection  
1033 (2) of section 218.32, Florida Statutes, are amended to read:

1034 218.32 Annual financial reports; local governmental  
1035 entities.—

1036 (1)

1037 (d) Each local governmental entity that is required to  
1038 provide for an audit under s. 218.39(1) must submit a copy of  
1039 the audit report and annual financial report to the department  
1040 within 45 days after the completion of the audit report but no  
1041 later than 9 months after the end of the fiscal year. In  
1042 conducting an audit of a local governmental entity pursuant to  
1043 s. 218.39, an independent certified public accountant shall  
1044 determine whether the entity's annual financial report is in  
1045 agreement with the audited financial statements. The  
1046 accountant's audit report must be supported by the same level of

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1047 detail as required for the annual financial report. If the  
1048 accountant's audit report is not in agreement with the annual  
1049 financial report, the accountant shall specify and explain the  
1050 significant differences that exist between the annual financial  
1051 report and the audit report.

1052 (2) The department shall annually by December 1 file a  
1053 verified report with the Governor, the Legislature, the Auditor  
1054 General, and the Special District Accountability Program of the  
1055 Department of Economic Opportunity showing the revenues, both  
1056 locally derived and derived from intergovernmental transfers,  
1057 and the expenditures of each local governmental entity, regional  
1058 planning council, local government finance commission, and  
1059 municipal power corporation that is required to submit an annual  
1060 financial report. In preparing the verified report, the  
1061 department may request additional information from the local  
1062 governmental entity. The information requested must be provided  
1063 to the department within 45 days after the request. If the local  
1064 governmental entity does not comply with the request, the  
1065 department shall notify the Legislative Auditing Committee,  
1066 which may take action pursuant to s. 11.40(2). The report must  
1067 include, but is not limited to:

1068 (a) The total revenues and expenditures of each local  
1069 governmental entity that is a component unit included in the  
1070 annual financial report of the reporting entity.

1071 (b) The amount of outstanding long-term debt by each local  
1072 governmental entity. For purposes of this paragraph, the term  
1073 "long-term debt" means any agreement or series of agreements to  
1074 pay money, which, at inception, contemplate terms of payment  
1075 exceeding 1 year in duration.

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1076 Section 21. Present subsection (3) of section 218.33,  
1077 Florida Statutes, is redesignated as subsection (4), and a new  
1078 subsection (3) is added to that section, to read:

1079 218.33 Local governmental entities; establishment of  
1080 uniform fiscal years and accounting practices and procedures.—

1081 (3) Each local governmental entity shall establish and  
1082 maintain internal controls designed to:

1083 (a) Prevent and detect fraud, waste, and abuse.

1084 (b) Promote and encourage compliance with applicable laws,  
1085 rules, contracts, grant agreements, and best practices.

1086 (c) Support economical and efficient operations.

1087 (d) Ensure reliability of financial records and reports.

1088 (e) Safeguard assets.

1089 Section 22. Present subsections (8) through (12) of section  
1090 218.39, Florida Statutes, are redesignated as subsections (9)  
1091 through (13), respectively, and a new subsection (8) is added to  
1092 that section, to read:

1093 218.39 Annual financial audit reports.—

1094 (8) If the audit report includes a recommendation that was  
1095 included in the preceding financial audit report but remains  
1096 unaddressed, the governing body of the audited entity, within 60  
1097 days after the delivery of the audit report to the governing  
1098 body, shall indicate during a regularly scheduled public meeting  
1099 whether it intends to take corrective action, the intended  
1100 corrective action, and the timeframe for the corrective action.  
1101 If the governing body indicates that it does not intend to take  
1102 corrective action, it shall explain its decision at the public  
1103 meeting.

1104 Section 23. Subsection (2) of section 218.391, Florida

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1105 Statutes, is amended, and subsection (9) is added to that  
1106 section, to read:

1107 218.391 Auditor selection procedures.—

1108 (2) The governing body of a ~~charter~~ county, municipality,  
1109 special district, district school board, charter school, or  
1110 charter technical career center shall establish an audit  
1111 committee.

1112 (a) The audit committee for a county ~~Each noncharter county~~  
1113 ~~shall establish an audit committee that,~~ at a minimum, shall  
1114 consist of each of the county officers elected pursuant to the  
1115 county charter or s. 1(d), Art. VIII of the State Constitution,  
1116 or their respective designees ~~a designee,~~ and one member of the  
1117 board of county commissioners or its designee.

1118 (b) The audit committee for a municipality, special  
1119 district, district school board, charter school, or charter  
1120 technical career center shall consist of at least three members.  
1121 One member of the audit committee must be a member of the  
1122 governing body of an entity specified in this paragraph, who  
1123 shall also serve as the chair of the committee.

1124 (c) An employee, chief executive officer, or chief  
1125 financial officer of the county, municipality, special district,  
1126 district school board, charter school, or charter technical  
1127 career center may not serve as a member of an audit committee  
1128 established under this subsection.

1129 (d) The primary purpose of the audit committee is to assist  
1130 the governing body in selecting an auditor to conduct the annual  
1131 financial audit required in s. 218.39; however, the audit  
1132 committee may serve other audit oversight purposes as determined  
1133 by the entity's governing body. The public may ~~shall~~ not be

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1134 excluded from the proceedings under this section.

1135 (9) An audit report submitted pursuant to s. 218.39 must  
1136 include an affidavit executed by the chair of the audit  
1137 committee affirming that the committee complied with the  
1138 requirements of subsections (3)-(6) in selecting an auditor. If  
1139 the Auditor General determines that an entity failed to comply  
1140 with the requirements of subsections (3)-(6) in selecting an  
1141 auditor, the entity shall select a replacement auditor in  
1142 accordance with this section to conduct audits for subsequent  
1143 fiscal years if the original audit was performed under a  
1144 multiyear contract. If the replacement of an auditor would  
1145 preclude the entity from timely completing the annual financial  
1146 audit required by s. 218.39, the entity shall replace an auditor  
1147 in accordance with this section for the subsequent annual  
1148 financial audit. A multiyear contract between an entity or an  
1149 auditor may not prohibit or restrict an entity from complying  
1150 with this subsection.

1151 Section 24. Subsection (2) of section 286.0114, Florida  
1152 Statutes, is amended to read:

1153 286.0114 Public meetings; reasonable opportunity to be  
1154 heard; attorney fees.-

1155 (2) Members of the public shall be given a reasonable  
1156 opportunity to be heard on a proposition before a board or  
1157 commission. The opportunity to be heard need not occur at the  
1158 same meeting at which the board or commission takes official  
1159 action on the proposition if the opportunity occurs at a meeting  
1160 that is during the decisionmaking process and is within  
1161 reasonable proximity in time before the meeting at which the  
1162 board or commission takes the official action. A board or

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1163 commission may not require a member of the public to provide an  
1164 advance written copy of his or her testimony or comments as a  
1165 precondition of being given the opportunity to be heard at a  
1166 meeting. This section does not prohibit a board or commission  
1167 from maintaining orderly conduct or proper decorum in a public  
1168 meeting. The opportunity to be heard is subject to rules or  
1169 policies adopted by the board or commission, as provided in  
1170 subsection (4).

1171 Section 25. Paragraph (b) of subsection (2) of section  
1172 288.92, Florida Statutes, is amended to read:

1173 288.92 Divisions of Enterprise Florida, Inc.—

1174 (2)

1175 (b)1. The following officers and board members are subject  
1176 to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and  
1177 112.3143(2):

1178 a. Officers and members of the board of directors of the  
1179 divisions of Enterprise Florida, Inc.

1180 b. Officers and members of the board of directors of  
1181 subsidiaries of Enterprise Florida, Inc.

1182 c. Officers and members of the board of directors of  
1183 corporations created to carry out the missions of Enterprise  
1184 Florida, Inc.

1185 d. Officers and members of the board of directors of  
1186 corporations with which a division is required by law to  
1187 contract to carry out its missions.

1188 2. For a period of 2 years after retirement from or  
1189 termination of service to a division, or for a period of 10  
1190 years if removed or terminated for cause or for misconduct, as  
1191 defined in s. 443.036(29), the officers and board members

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1192 specified in subparagraph 1. may not represent another person or  
1193 entity for compensation before:

1194 a. Enterprise Florida, Inc.;

1195 b. A division, a subsidiary, or the board of directors of  
1196 corporations created to carry out the missions of Enterprise  
1197 Florida, Inc.; or

1198 c. A division with which Enterprise Florida, Inc., is  
1199 required by law to contract to carry out its missions.

1200 3.2. For purposes of applying ss. 112.313(1)-(8), (10),  
1201 (12), and (15); 112.3135; and 112.3143(2) to activities of the  
1202 officers and members of the board of directors specified in  
1203 subparagraph 1., those persons shall be considered public  
1204 officers or employees and the corporation shall be considered  
1205 their agency.

1206 4.3. It is not a violation of s. 112.3143(2) or (4) for the  
1207 officers or members of the board of directors of the Florida  
1208 Tourism Industry Marketing Corporation to:

1209 a. Vote on the 4-year marketing plan required under s.  
1210 288.923 or vote on any individual component of or amendment to  
1211 the plan.

1212 b. Participate in the establishment or calculation of  
1213 payments related to the private match requirements of s.  
1214 288.904(3). The officer or member must file an annual disclosure  
1215 describing the nature of his or her interests or the interests  
1216 of his or her principals, including corporate parents and  
1217 subsidiaries of his or her principal, in the private match  
1218 requirements. This annual disclosure requirement satisfies the  
1219 disclosure requirement of s. 112.3143(4). This disclosure must  
1220 be placed ~~either~~ on the Florida Tourism Industry Marketing

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1221 Corporation's website or included in the minutes of each meeting  
1222 of the Florida Tourism Industry Marketing Corporation's board of  
1223 directors at which the private match requirements are discussed  
1224 or voted upon.

1225 Section 26. Paragraph (a) of subsection (3) of section  
1226 288.9604, Florida Statutes, is amended to read:

1227 288.9604 Creation of the authority.—

1228 (3) (a) 1. A director may not receive compensation for his or  
1229 her services, but is entitled to necessary expenses, including  
1230 travel expenses, incurred in the discharge of his or her duties.  
1231 Each director shall hold office until his or her successor has  
1232 been appointed.

1233 2. Directors are subject to ss. 112.313(1)-(8), (10), (12),  
1234 and (15); 112.3135; and 112.3143(2). For purposes of applying  
1235 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and  
1236 112.3143(2) to activities of directors, directors shall be  
1237 considered public officers and the corporation shall be  
1238 considered their agency.

1239 3. A director of the corporation may not represent another  
1240 person or entity for compensation before the corporation for a  
1241 period of 2 years following his or her service on the board of  
1242 directors.

1243 Section 27. Paragraph (e) of subsection (4), paragraph (d)  
1244 of subsection (5), and paragraph (d) of subsection (6) of  
1245 section 373.536, Florida Statutes, are amended to read:

1246 373.536 District budget and hearing thereon.—

1247 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

1248 (e) ~~By September 1, 2012,~~ Each district shall provide a  
1249 monthly financial statement in the form and manner prescribed by



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1250 the Department of Financial Services to the district's governing  
1251 board and make such monthly financial statement available for  
1252 public access on its website.

1253 (5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND  
1254 APPROVAL.—

1255 (d) Each district shall, by August 1 of each year, submit  
1256 for review a tentative budget and a description of any  
1257 significant changes from the preliminary budget submitted to the  
1258 Legislature pursuant to s. 373.535 to the Governor, the  
1259 President of the Senate, the Speaker of the House of  
1260 Representatives, the chairs of all legislative committees and  
1261 subcommittees having substantive or fiscal jurisdiction over  
1262 water management districts, as determined by the President of  
1263 the Senate or the Speaker of the House of Representatives, as  
1264 applicable, the secretary of the department, and the governing  
1265 body of each county in which the district has jurisdiction or  
1266 derives any funds for the operations of the district. The  
1267 tentative budget must be posted on the district's official  
1268 website at least 2 days before budget hearings held pursuant to  
1269 s. 200.065 or other law and must remain on the website for at  
1270 least 45 days.

1271 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;  
1272 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

1273 (d) The final adopted budget must be posted on the water  
1274 management district's official website within 30 days after  
1275 adoption and must remain on the website for at least 2 years.

1276 Section 28. Subsection (7) of section 838.014, Florida  
1277 Statutes, is renumbered as subsection (8), present subsections  
1278 (4) and (6) are amended, and a new subsection (6) is added to

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1279 that section, to read:

1280 838.014 Definitions.—As used in this chapter, the term:

1281 (4) "Governmental entity" means an agency or entity of the  
1282 state, a county, municipality, or special district or any other  
1283 public entity created or authorized by law ~~"Corruptly" or "with~~  
1284 ~~corrupt intent" means acting knowingly and dishonestly for a~~  
1285 ~~wrongful purpose.~~

1286 (6) "Public contractor" means, for purposes of ss. 838.022  
1287 and 838.22 only:

1288 (a) Any person, as defined in s. 1.01(3), who has entered  
1289 into a contract with a governmental entity; or

1290 (b) Any officer or employee of a person, as defined in s.  
1291 1.01(3), who has entered into a contract with a governmental  
1292 entity.

1293 (7)~~(6)~~ "Public servant" means:

1294 (a) Any officer or employee of a governmental state,  
1295 ~~county, municipal, or special district agency or entity,~~  
1296 including

1297 ~~(b)~~ any executive, legislative, or judicial branch officer  
1298 or employee;

1299 (b)~~(e)~~ Any person, except a witness, who acts as a general  
1300 or special magistrate, receiver, auditor, arbitrator, umpire,  
1301 referee, consultant, or hearing officer while performing a  
1302 governmental function; or

1303 (c)~~(d)~~ A candidate for election or appointment to any of  
1304 the officer positions listed in this subsection, or an  
1305 individual who has been elected to, but has yet to officially  
1306 assume the responsibilities of, public office.

1307 Section 29. Subsection (1) of section 838.015, Florida

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1308 Statutes, is amended to read:

1309 838.015 Bribery.—

1310 (1) "Bribery" means ~~corruptly~~ to knowingly and  
1311 intentionally give, offer, or promise to any public servant, or,  
1312 if a public servant, ~~corruptly~~ to knowingly and intentionally  
1313 request, solicit, accept, or agree to accept for himself or  
1314 herself or another, any pecuniary or other benefit not  
1315 authorized by law with an intent or purpose to influence the  
1316 performance of any act or omission which the person believes to  
1317 be, or the public servant represents as being, within the  
1318 official discretion of a public servant, in violation of a  
1319 public duty, or in performance of a public duty.

1320 Section 30. Subsections (1) and (2) of section 838.016,  
1321 Florida Statutes, are amended to read:

1322 838.016 Unlawful compensation or reward for official  
1323 behavior.—

1324 (1) It is unlawful for any person ~~corruptly~~ to knowingly  
1325 and intentionally give, offer, or promise to any public servant,  
1326 or, if a public servant, ~~corruptly~~ to knowingly and  
1327 intentionally request, solicit, accept, or agree to accept, any  
1328 pecuniary or other benefit not authorized by law, for the past,  
1329 present, or future performance, nonperformance, or violation of  
1330 any act or omission which the person believes to have been, or  
1331 the public servant represents as having been, either within the  
1332 official discretion of the public servant, in violation of a  
1333 public duty, or in performance of a public duty. This section  
1334 does not ~~Nothing herein shall be construed to~~ preclude a public  
1335 servant from accepting rewards for services performed in  
1336 apprehending any criminal.

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1337 (2) It is unlawful for any person ~~corruptly~~ to knowingly  
1338 and intentionally give, offer, or promise to any public servant,  
1339 or, if a public servant, ~~corruptly~~ to knowingly and  
1340 intentionally request, solicit, accept, or agree to accept, any  
1341 pecuniary or other benefit not authorized by law for the past,  
1342 present, or future exertion of any influence upon or with any  
1343 other public servant regarding any act or omission which the  
1344 person believes to have been, or which is represented to him or  
1345 her as having been, either within the official discretion of the  
1346 other public servant, in violation of a public duty, or in  
1347 performance of a public duty.

1348 Section 31. Subsection (1) of section 838.022, Florida  
1349 Statutes, is amended, and subsection (2) of that section is  
1350 republished, to read:

1351 838.022 Official misconduct.—

1352 (1) It is unlawful for a public servant or public  
1353 contractor, ~~with corrupt intent~~ to knowingly and intentionally  
1354 obtain a benefit for any person or to cause unlawful harm to  
1355 another, by ~~to~~:

1356 (a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to  
1357 falsify, any official record or official document;

1358 (b) Concealing, covering up, destroying, mutilating, or  
1359 altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any  
1360 official record or official document, except as authorized by  
1361 law or contract, or causing ~~cause~~ another person to perform such  
1362 an act; or

1363 (c) Obstructing, delaying, or preventing ~~Obstruct, delay,~~  
1364 ~~or prevent~~ the communication of information relating to the  
1365 commission of a felony that directly involves or affects the

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1366 ~~government public agency or public~~ entity served by the public  
1367 servant or public contractor.

1368 (2) For the purposes of this section:

1369 (a) The term "public servant" does not include a candidate  
1370 who does not otherwise qualify as a public servant.

1371 (b) An official record or official document includes only  
1372 public records.

1373 Section 32. Section 838.22, Florida Statutes, is amended to  
1374 read:

1375 838.22 Bid tampering.—

1376 (1) It is unlawful for a public servant or a public  
1377 contractor who has contracted with a governmental entity to  
1378 assist in a competitive procurement, with corrupt intent to  
1379 knowingly and intentionally influence or attempt to influence  
1380 the competitive solicitation bidding process undertaken by any  
1381 governmental state, county, municipal, or special district  
1382 agency, or any other public entity, for the procurement of  
1383 commodities or services, by ~~to~~:

1384 (a) Disclosing, except as authorized by law, Disclose  
1385 material information concerning a vendor's response, any  
1386 evaluation results, bid or other aspects of the competitive  
1387 solicitation bidding process when such information is not  
1388 publicly disclosed.

1389 (b) Altering or amending Alter or amend a submitted  
1390 response bid, documents or other materials supporting a  
1391 submitted response bid, or any evaluation bid results relating  
1392 to the competitive solicitation for the purpose of intentionally  
1393 providing a competitive advantage to any person who submits a  
1394 response bid.

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1395 (2) It is unlawful for a public servant or a public  
1396 contractor who has contracted with a governmental entity to  
1397 assist in a competitive procurement, ~~with corrupt intent~~ to  
1398 knowingly and intentionally obtain a benefit for any person or  
1399 to cause unlawful harm to another by circumventing, ~~to~~  
1400 ~~circumvent~~ a competitive solicitation ~~bidding~~ process required  
1401 by law or rule through the use of ~~by using~~ a sole-source  
1402 contract for commodities or services.

1403 (3) It is unlawful for any person to knowingly agree,  
1404 conspire, combine, or confederate, directly or indirectly, with  
1405 a public servant or a public contractor who has contracted with  
1406 a governmental entity to assist in a competitive procurement to  
1407 violate subsection (1) or subsection (2).

1408 (4) It is unlawful for any person to knowingly enter into a  
1409 contract for commodities or services which was secured by a  
1410 public servant or a public contractor who has contracted with a  
1411 governmental entity to assist in a competitive procurement  
1412 acting in violation of subsection (1) or subsection (2).

1413 (5) Any person who violates this section commits a felony  
1414 of the second degree, punishable as provided in s. 775.082, s.  
1415 775.083, or s. 775.084.

1416 Section 33. Paragraph (1) of subsection (12) of section  
1417 1001.42, Florida Statutes, is amended, a new subsection (27) is  
1418 added to that section, and present subsection (27) of that  
1419 section is renumbered as subsection (28), to read:

1420 1001.42 Powers and duties of district school board.—The  
1421 district school board, acting as a board, shall exercise all  
1422 powers and perform all duties listed below:

1423 (12) FINANCE.—Take steps to assure students adequate

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1424 educational facilities through the financial procedure  
1425 authorized in chapters 1010 and 1011 and as prescribed below:

1426 (1) *Internal auditor.*—May employ an internal auditor to  
1427 perform ongoing financial verification of the financial records  
1428 of the school district and such other audits and reviews as the  
1429 district school board directs for the purpose of determining:

1430 1. The adequacy of internal controls designed to prevent  
1431 and detect fraud, waste, and abuse.

1432 2. Compliance with applicable laws, rules, contracts, grant  
1433 agreements, district school board-approved policies, and best  
1434 practices.

1435 3. The efficiency of operations.

1436 4. The reliability of financial records and reports.

1437 5. The safeguarding of assets.

1438

1439 The internal auditor shall report directly to the district  
1440 school board or its designee.

1441 (27) VISITATION OF SCHOOLS.—Visit the schools, observe the  
1442 management and instruction, give suggestions for improvement,  
1443 and advise citizens with the view of promoting interest in  
1444 education and improving the school.

1445 Section 34. Paragraph (j) of subsection (9) of section  
1446 1002.33, Florida Statutes, is amended to read:

1447 1002.33 Charter schools.—

1448 (9) CHARTER SCHOOL REQUIREMENTS.—

1449 (j) The governing body of the charter school shall be  
1450 responsible for:

1451 1. Establishing and maintaining internal controls designed  
1452 to:

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1453 a. Prevent and detect fraud, waste, and abuse.

1454 b. Promote and encourage compliance with applicable laws,  
 1455 rules, contracts, grant agreements, and best practices.

1456 c. Support economical and efficient operations.

1457 d. Ensure reliability of financial records and reports.

1458 e. Safeguard assets.

1459 ~~2.1.~~ Ensuring that the charter school has retained the  
 1460 services of a certified public accountant or auditor for the  
 1461 annual financial audit, pursuant to s. 1002.345(2), who shall  
 1462 submit the report to the governing body.

1463 ~~3.2.~~ Reviewing and approving the audit report, including  
 1464 audit findings and recommendations for the financial recovery  
 1465 plan.

1466 ~~4.a.3.a.~~ Performing the duties in s. 1002.345, including  
 1467 monitoring a corrective action plan.

1468 b. Monitoring a financial recovery plan in order to ensure  
 1469 compliance.

1470 ~~5.4.~~ Participating in governance training approved by the  
 1471 department which must include government in the sunshine,  
 1472 conflicts of interest, ethics, and financial responsibility.

1473 Section 35. Present subsections (6) through (10) of section  
 1474 1002.37, Florida Statutes, are redesignated as subsections (7)  
 1475 through (11), respectively, a new subsection (6) is added to  
 1476 that section, and present subsections (6) and (11) of that  
 1477 section are amended, to read:

1478 1002.37 The Florida Virtual School.—

1479 (6) The Florida Virtual School shall have an annual  
 1480 financial audit of its accounts and records conducted by an  
 1481 independent auditor who is a certified public accountant



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1482 licensed under chapter 473. The independent auditor shall  
1483 conduct the audit in accordance with rules adopted by the  
1484 Auditor General pursuant to s. 11.45 and, upon completion of the  
1485 audit, shall prepare an audit report in accordance with such  
1486 rules. The audit report must include a written statement of the  
1487 board of trustees describing corrective action to be taken in  
1488 response to each of the recommendations of the independent  
1489 auditor included in the audit report. The independent auditor  
1490 shall submit the audit report to the board of trustees and the  
1491 Auditor General no later than 9 months after the end of the  
1492 preceding fiscal year.

1493 (7)-(6) The board of trustees shall annually submit to the  
1494 Governor, the Legislature, the Commissioner of Education, and  
1495 the State Board of Education the audit report prepared pursuant  
1496 to subsection (6) and a complete and detailed report setting  
1497 forth:

1498 (a) The operations and accomplishments of the Florida  
1499 Virtual School within the state and those occurring outside the  
1500 state as Florida Virtual School Global.

1501 (b) The marketing and operational plan for the Florida  
1502 Virtual School and Florida Virtual School Global, including  
1503 recommendations regarding methods for improving the delivery of  
1504 education through the Internet and other distance learning  
1505 technology.

1506 (c) The assets and liabilities of the Florida Virtual  
1507 School and Florida Virtual School Global at the end of the  
1508 fiscal year.

1509 ~~(d) A copy of an annual financial audit of the accounts and~~  
1510 ~~records of the Florida Virtual School and Florida Virtual School~~

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1511 ~~Global, conducted by an independent certified public accountant~~  
1512 ~~and performed in accordance with rules adopted by the Auditor~~  
1513 ~~General.~~

1514 ~~(e)~~ Recommendations regarding the unit cost of providing  
1515 services to students through the Florida Virtual School and  
1516 Florida Virtual School Global. In order to most effectively  
1517 develop public policy regarding any future funding of the  
1518 Florida Virtual School, it is imperative that the cost of the  
1519 program is accurately identified. The identified cost of the  
1520 program must be based on reliable data.

1521 (e) ~~(f)~~ Recommendations regarding an accountability  
1522 mechanism to assess the effectiveness of the services provided  
1523 by the Florida Virtual School and Florida Virtual School Global.

1524 ~~(11) The Auditor General shall conduct an operational audit~~  
1525 ~~of the Florida Virtual School, including Florida Virtual School~~  
1526 ~~Global. The scope of the audit shall include, but not be limited~~  
1527 ~~to, the administration of responsibilities relating to~~  
1528 ~~personnel; procurement and contracting; revenue production;~~  
1529 ~~school funds, including internal funds; student enrollment~~  
1530 ~~records; franchise agreements; information technology~~  
1531 ~~utilization, assets, and security; performance measures and~~  
1532 ~~standards; and accountability. The final report on the audit~~  
1533 ~~shall be submitted to the President of the Senate and the~~  
1534 ~~Speaker of the House of Representatives no later than January~~  
1535 ~~31, 2014.~~

1536 Section 36. Subsection (5) is added to section 1010.01,  
1537 Florida Statutes, to read:

1538 1010.01 Uniform records and accounts.—

1539 (5) Each school district, Florida College System

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1540 institution, and state university shall establish and maintain  
1541 internal controls designed to:

1542 (a) Prevent and detect fraud, waste, and abuse.

1543 (b) Promote and encourage compliance with applicable laws,  
1544 rules, contracts, grant agreements, and best practices.

1545 (c) Support economical and efficient operations.

1546 (d) Ensure reliability of financial records and reports.

1547 (e) Safeguard assets.

1548 Section 37. Subsection (2) of section 1010.30, Florida  
1549 Statutes, is amended to read:

1550 1010.30 Audits required.—

1551 (2) If a school district, Florida College System  
1552 institution, or university audit report includes a  
1553 recommendation that was included in the preceding financial  
1554 audit report but remains unaddressed, ~~an audit contains a~~  
1555 ~~significant finding,~~ the district school board, the Florida  
1556 College System institution board of trustees, or the university  
1557 board of trustees, within 60 days after the delivery of the  
1558 audit report to the school district, Florida College System  
1559 institution, or university, shall indicate ~~conduct an audit~~  
1560 ~~overview~~ during a regularly scheduled public meeting whether it  
1561 intends to take corrective action, the intended corrective  
1562 action, and the timeframe for the corrective action. If the  
1563 district school board, Florida College System institution board  
1564 of trustees, or university board of trustees indicates that it  
1565 does not intend to take corrective action, it shall explain its  
1566 decision at the public meeting.

1567 Section 38. Subsection (5) of section 99.061, Florida  
1568 Statutes, is amended to read:

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1569 99.061 Method of qualifying for nomination or election to  
1570 federal, state, county, or district office.-

1571 (5) At the time of qualifying for office, each candidate  
1572 for a constitutional office or an elected municipal office shall  
1573 file a full and public disclosure of financial interests  
1574 pursuant to s. 8, Art. II of the State Constitution, which must  
1575 be verified under oath or affirmation pursuant to s.  
1576 92.525(1) (a), and a candidate for any other office, ~~including~~  
1577 ~~local elective office,~~ shall file a statement of financial  
1578 interests pursuant to s. 112.3145.

1579 Section 39. Subsection (3) of section 218.503, Florida  
1580 Statutes, is amended to read:

1581 218.503 Determination of financial emergency.-

1582 (3) Upon notification that one or more of the conditions in  
1583 subsection (1) have occurred or will occur if action is not  
1584 taken to assist the local governmental entity or district school  
1585 board, the Governor or his or her designee shall contact the  
1586 local governmental entity or the Commissioner of Education or  
1587 his or her designee shall contact the district school board, as  
1588 appropriate, to determine what actions have been taken by the  
1589 local governmental entity or the district school board to  
1590 resolve or prevent the condition. The information requested must  
1591 be provided within 45 days after the date of the request. If the  
1592 local governmental entity or the district school board does not  
1593 comply with the request, the Governor or his or her designee or  
1594 the Commissioner of Education or his or her designee shall  
1595 notify ~~the members of~~ the Legislative Auditing Committee, which  
1596 ~~who~~ may take action pursuant to s. 11.40(2) ~~s. 11.40~~. The  
1597 Governor or the Commissioner of Education, as appropriate, shall

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1598 determine whether the local governmental entity or the district  
1599 school board needs state assistance to resolve or prevent the  
1600 condition. If state assistance is needed, the local governmental  
1601 entity or district school board is considered to be in a state  
1602 of financial emergency. The Governor or the Commissioner of  
1603 Education, as appropriate, has the authority to implement  
1604 measures as set forth in ss. 218.50-218.504 to assist the local  
1605 governmental entity or district school board in resolving the  
1606 financial emergency. Such measures may include, but are not  
1607 limited to:

1608 (a) Requiring approval of the local governmental entity's  
1609 budget by the Governor or approval of the district school  
1610 board's budget by the Commissioner of Education.

1611 (b) Authorizing a state loan to a local governmental entity  
1612 and providing for repayment of same.

1613 (c) Prohibiting a local governmental entity or district  
1614 school board from issuing bonds, notes, certificates of  
1615 indebtedness, or any other form of debt until such time as it is  
1616 no longer subject to this section.

1617 (d) Making such inspections and reviews of records,  
1618 information, reports, and assets of the local governmental  
1619 entity or district school board as are needed. The appropriate  
1620 local officials shall cooperate in such inspections and reviews.

1621 (e) Consulting with officials and auditors of the local  
1622 governmental entity or the district school board and the  
1623 appropriate state officials regarding any steps necessary to  
1624 bring the books of account, accounting systems, financial  
1625 procedures, and reports into compliance with state requirements.

1626 (f) Providing technical assistance to the local

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1627 governmental entity or the district school board.

1628 (g)1. Establishing a financial emergency board to oversee  
1629 the activities of the local governmental entity or the district  
1630 school board. If a financial emergency board is established for  
1631 a local governmental entity, the Governor shall appoint board  
1632 members and select a chair. If a financial emergency board is  
1633 established for a district school board, the State Board of  
1634 Education shall appoint board members and select a chair. The  
1635 financial emergency board shall adopt such rules as are  
1636 necessary for conducting board business. The board may:

1637 a. Make such reviews of records, reports, and assets of the  
1638 local governmental entity or the district school board as are  
1639 needed.

1640 b. Consult with officials and auditors of the local  
1641 governmental entity or the district school board and the  
1642 appropriate state officials regarding any steps necessary to  
1643 bring the books of account, accounting systems, financial  
1644 procedures, and reports of the local governmental entity or the  
1645 district school board into compliance with state requirements.

1646 c. Review the operations, management, efficiency,  
1647 productivity, and financing of functions and operations of the  
1648 local governmental entity or the district school board.

1649 d. Consult with other governmental entities for the  
1650 consolidation of all administrative direction and support  
1651 services, including, but not limited to, services for asset  
1652 sales, economic and community development, building inspections,  
1653 parks and recreation, facilities management, engineering and  
1654 construction, insurance coverage, risk management, planning and  
1655 zoning, information systems, fleet management, and purchasing.

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1656           2. The recommendations and reports made by the financial  
1657 emergency board must be submitted to the Governor for local  
1658 governmental entities or to the Commissioner of Education and  
1659 the State Board of Education for district school boards for  
1660 appropriate action.

1661           (h) Requiring and approving a plan, to be prepared by  
1662 officials of the local governmental entity or the district  
1663 school board in consultation with the appropriate state  
1664 officials, prescribing actions that will cause the local  
1665 governmental entity or district school board to no longer be  
1666 subject to this section. The plan must include, but need not be  
1667 limited to:

1668           1. Provision for payment in full of obligations outlined in  
1669 subsection (1), designated as priority items, which are  
1670 currently due or will come due.

1671           2. Establishment of priority budgeting or zero-based  
1672 budgeting in order to eliminate items that are not affordable.

1673           3. The prohibition of a level of operations which can be  
1674 sustained only with nonrecurring revenues.

1675           4. Provisions implementing the consolidation, sourcing, or  
1676 discontinuance of all administrative direction and support  
1677 services, including, but not limited to, services for asset  
1678 sales, economic and community development, building inspections,  
1679 parks and recreation, facilities management, engineering and  
1680 construction, insurance coverage, risk management, planning and  
1681 zoning, information systems, fleet management, and purchasing.

1682           Section 40. Subsection (2) of section 1002.455, Florida  
1683 Statutes, is amended to read:

1684           1002.455 Student eligibility for K-12 virtual instruction.-

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1685 (2) A student is eligible to participate in virtual  
1686 instruction if:

1687 (a) The student spent the prior school year in attendance  
1688 at a public school in the state and was enrolled and reported by  
1689 the school district for funding during October and February for  
1690 purposes of the Florida Education Finance Program surveys;

1691 (b) The student is a dependent child of a member of the  
1692 United States Armed Forces who was transferred within the last  
1693 12 months to this state from another state or from a foreign  
1694 country pursuant to a permanent change of station order;

1695 (c) The student was enrolled during the prior school year  
1696 in a virtual instruction program under s. 1002.45 or a full-time  
1697 Florida Virtual School program under s. 1002.37(9)(a) ~~s.~~  
1698 ~~1002.37(8)(a)~~;

1699 (d) The student has a sibling who is currently enrolled in  
1700 a virtual instruction program and the sibling was enrolled in  
1701 that program at the end of the prior school year;

1702 (e) The student is eligible to enter kindergarten or first  
1703 grade; or

1704 (f) The student is eligible to enter grades 2 through 5 and  
1705 is enrolled full-time in a school district virtual instruction  
1706 program, virtual charter school, or the Florida Virtual School.

1707 Section 41. For the purpose of incorporating the amendment  
1708 made by this act to section 838.022, Florida Statutes, in a  
1709 reference thereto, paragraph (a) of subsection (2) of section  
1710 112.534, Florida Statutes, is reenacted to read:

1711 112.534 Failure to comply; official misconduct.-

1712 (2)(a) All the provisions of s. 838.022 shall apply to this  
1713 part.



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1714 Section 42. For the purpose of incorporating the amendment  
1715 made by this act to section 838.022, Florida Statutes, in a  
1716 reference thereto, paragraph (d) of subsection (4) of section  
1717 117.01, Florida Statutes, is reenacted to read:

1718 117.01 Appointment, application, suspension, revocation,  
1719 application fee, bond, and oath.—

1720 (4) The Governor may suspend a notary public for any of the  
1721 grounds provided in s. 7, Art. IV of the State Constitution.  
1722 Grounds constituting malfeasance, misfeasance, or neglect of  
1723 duty include, but are not limited to, the following:

1724 (d) Official misconduct as defined in s. 838.022.

1725 Section 43. For the purpose of incorporating the amendment  
1726 made by this act to section 838.014, Florida Statutes, in a  
1727 reference thereto, subsection (11) of section 817.568, Florida  
1728 Statutes, is reenacted to read:

1729 817.568 Criminal use of personal identification  
1730 information.—

1731 (11) A person who willfully and without authorization  
1732 fraudulently uses personal identification information concerning  
1733 an individual who is 60 years of age or older; a disabled adult  
1734 as defined in s. 825.101; a public servant as defined in s.  
1735 838.014; a veteran as defined in s. 1.01; a first responder as  
1736 defined in s. 125.01045; an individual who is employed by the  
1737 State of Florida; or an individual who is employed by the  
1738 Federal Government without first obtaining the consent of that  
1739 individual commits a felony of the second degree, punishable as  
1740 provided in s. 775.082, s. 775.083, or s. 775.084.

1741 Section 44. For the purpose of incorporating the amendments  
1742 made by this act to sections 838.015, 838.016, and 838.22,

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1743 Florida Statutes, in references thereto, paragraph (g) of  
 1744 subsection (3) of section 921.0022, Florida Statutes, is  
 1745 reenacted to read:

1746 921.0022 Criminal Punishment Code; offense severity ranking  
 1747 chart.—

1748 (3) OFFENSE SEVERITY RANKING CHART

1749 (g) LEVEL 7

1750

1751

| Florida<br>Statute | Felony<br>Degree | Description |
|--------------------|------------------|-------------|
|--------------------|------------------|-------------|

1752

|                |     |  |
|----------------|-----|--|
| 316.027(2) (c) | 1st | Accident involving death,<br>failure to stop; leaving scene. |
|----------------|-----|--|

1753

|                  |     |  |
|------------------|-----|--|
| 316.193(3) (c)2. | 3rd | DUI resulting in serious bodily<br>injury. |
|------------------|-----|--|

1754

|                 |     |   |
|-----------------|-----|---|
| 316.1935(3) (b) | 1st | Causing serious bodily injury<br>or death to another person;<br>driving at high speed or with<br>wanton disregard for safety<br>while fleeing or attempting to<br>elude law enforcement officer<br>who is in a patrol vehicle with<br>siren and lights activated. |
|-----------------|-----|---|

1755

|                 |     |   |
|-----------------|-----|---|
| 327.35(3) (c)2. | 3rd | Vessel BUI resulting in serious<br>bodily injury. |
|-----------------|-----|---|

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1756

402.319(2) 2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

1757

409.920 3rd Medicaid provider fraud; (2) (b) 1.a. \$10,000 or less.

1758

409.920 2nd Medicaid provider fraud; more (2) (b) 1.b. than \$10,000, but less than \$50,000.

1759

456.065(2) 3rd Practicing a health care profession without a license.

1760

456.065(2) 2nd Practicing a health care profession without a license which results in serious bodily injury.

1761

458.327(1) 3rd Practicing medicine without a license.

1762

459.013(1) 3rd Practicing osteopathic medicine without a license.

1763

460.411(1) 3rd Practicing chiropractic

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|      |            |     |  |
|------|------------|-----|--|
|      |            |     | medicine without a license.                                    |
| 1764 | 461.012(1) | 3rd | Practicing podiatric medicine without a license.               |
| 1765 | 462.17     | 3rd | Practicing naturopathy without a license.                      |
| 1766 | 463.015(1) | 3rd | Practicing optometry without a license.                        |
| 1767 | 464.016(1) | 3rd | Practicing nursing without a license.                          |
| 1768 | 465.015(2) | 3rd | Practicing pharmacy without a license.                         |
| 1769 | 466.026(1) | 3rd | Practicing dentistry or dental hygiene without a license.      |
| 1770 | 467.201    | 3rd | Practicing midwifery without a license.                        |
| 1771 | 468.366    | 3rd | Delivering respiratory care services without a license.        |
| 1772 | 483.828(1) | 3rd | Practicing as clinical laboratory personnel without a license. |

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1773

483.901 (9) 3rd Practicing medical physics  
without a license.

1774

484.013 (1) (c) 3rd Preparing or dispensing optical  
devices without a prescription.

1775

484.053 3rd Dispensing hearing aids without  
a license.

1776

494.0018 (2) 1st Conviction of any violation of  
chapter 494 in which the total  
money and property unlawfully  
obtained exceeded \$50,000 and  
there were five or more  
victims.

1777

560.123 (8) (b) 1. 3rd Failure to report currency or  
payment instruments exceeding  
\$300 but less than \$20,000 by a  
money services business.

1778

560.125 (5) (a) 3rd Money services business by  
unauthorized person, currency  
or payment instruments  
exceeding \$300 but less than  
\$20,000.

1779

655.50 (10) (b) 1. 3rd Failure to report financial

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1780

transactions exceeding \$300 but less than \$20,000 by financial institution.

775.21(10)(a)

3rd

Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.

1781

775.21(10)(b)

3rd

Sexual predator working where children regularly congregate.

1782

775.21(10)(g)

3rd

Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

1783

782.051(3)

2nd

Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

1784

782.07(1)

2nd

Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

1785

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|      |                    |     |   |
|------|--------------------|-----|---|
| 1786 | 782.071            | 2nd | Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide). |
| 1787 | 782.072            | 2nd | Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).                           |
| 1788 | 784.045 (1) (a) 1. | 2nd | Aggravated battery; intentionally causing great bodily harm or disfigurement.   |
| 1789 | 784.045 (1) (a) 2. | 2nd | Aggravated battery; using deadly weapon.  |
| 1790 | 784.045 (1) (b)    | 2nd | Aggravated battery; perpetrator aware victim pregnant.  |
| 1791 | 784.048 (4)        | 3rd | Aggravated stalking; violation of injunction or court order.  |
| 1792 | 784.048 (7)        | 3rd | Aggravated stalking; violation of court order.  |
|      | 784.07 (2) (d)     | 1st | Aggravated battery on law enforcement officer.  |

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1793

784.074 (1) (a) 1st Aggravated battery on sexually violent predators facility staff.

1794

784.08 (2) (a) 1st Aggravated battery on a person 65 years of age or older.

1795

784.081 (1) 1st Aggravated battery on specified official or employee.

1796

784.082 (1) 1st Aggravated battery by detained person on visitor or other detainee.

1797

784.083 (1) 1st Aggravated battery on code inspector.

1798

787.06 (3) (a) 2. 1st Human trafficking using coercion for labor and services of an adult.

1799

787.06 (3) (e) 2. 1st Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.

1800

790.07 (4) 1st Specified weapons violation



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|      |            |          |  |
|------|------------|----------|--|
|      |            |          | subsequent to previous conviction of s. 790.07(1) or (2).  |
| 1801 | 790.16(1)  | 1st      | Discharge of a machine gun under specified circumstances.  |
| 1802 | 790.165(2) | 2nd      | Manufacture, sell, possess, or deliver hoax bomb.  |
| 1803 | 790.165(3) | 2nd      | Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.                     |
| 1804 | 790.166(3) | 2nd      | Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.  |
| 1805 | 790.166(4) | 2nd      | Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony. |
| 1806 | 790.23     | 1st, PBL | Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.                          |

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1807

794.08 (4) 3rd Female genital mutilation;  
consent by a parent, guardian,  
or a person in custodial  
authority to a victim younger  
than 18 years of age.

1808

796.05 (1) 1st Live on earnings of a  
prostitute; 2nd offense.

1809

796.05 (1) 1st Live on earnings of a  
prostitute; 3rd and subsequent  
offense.

1810

800.04 (5) (c) 1. 2nd Lewd or lascivious molestation;  
victim younger than 12 years of  
age; offender younger than 18  
years of age.

1811

800.04 (5) (c) 2. 2nd Lewd or lascivious molestation;  
victim 12 years of age or older  
but younger than 16 years of  
age; offender 18 years of age  
or older.

1812

800.04 (5) (e) 1st Lewd or lascivious molestation;  
victim 12 years of age or older  
but younger than 16 years;  
offender 18 years or older;

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1813

prior conviction for specified sex offense.

806.01 (2)

2nd

Maliciously damage structure by fire or explosive.

1814

810.02 (3) (a)

2nd

Burglary of occupied dwelling; unarmed; no assault or battery.

1815

810.02 (3) (b)

2nd

Burglary of unoccupied dwelling; unarmed; no assault or battery.

1816

810.02 (3) (d)

2nd

Burglary of occupied conveyance; unarmed; no assault or battery.

1817

810.02 (3) (e)

2nd

Burglary of authorized emergency vehicle.

1818

812.014 (2) (a) 1.

1st

Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.

1819

812.014 (2) (b) 2.

2nd

Property stolen, cargo valued

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|      |                    |     |  |
|------|--------------------|-----|--|
| 1820 |                    |     | at less than \$50,000, grand theft in 2nd degree.  |
|      | 812.014 (2) (b) 3. | 2nd | Property stolen, emergency medical equipment; 2nd degree grand theft.                                      |
| 1821 |                    |     |  |
|      | 812.014 (2) (b) 4. | 2nd | Property stolen, law enforcement equipment from authorized emergency vehicle.                              |
| 1822 |                    |     |  |
|      | 812.0145 (2) (a)   | 1st | Theft from person 65 years of age or older; \$50,000 or more.  |
| 1823 |                    |     |  |
|      | 812.019 (2)        | 1st | Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property. |
| 1824 |                    |     |  |
|      | 812.131 (2) (a)    | 2nd | Robbery by sudden snatching.   |
| 1825 |                    |     |  |
|      | 812.133 (2) (b)    | 1st | Carjacking; no firearm, deadly weapon, or other weapon.  |
| 1826 |                    |     |  |
|      | 817.034 (4) (a) 1. | 1st | Communications fraud, value greater than \$50,000.   |
| 1827 |                    |     |  |
|      | 817.234 (8) (a)    | 2nd | Solicitation of motor vehicle accident victims with intent to  |

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|      |                            |     |  |
|------|----------------------------|-----|--|
|      |                            |     | defraud.   |
| 1828 | 817.234 (9)                | 2nd | Organizing, planning, or participating in an intentional motor vehicle collision.  |
| 1829 | 817.234 (11) (c)           | 1st | Insurance fraud; property value \$100,000 or more.   |
| 1830 | 817.2341 (2) (b) & (3) (b) | 1st | Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity. |
| 1831 | 817.535 (2) (a)            | 3rd | Filing false lien or other unauthorized document.  |
| 1832 | 825.102 (3) (b)            | 2nd | Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.  |
| 1833 | 825.103 (3) (b)            | 2nd | Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.   |

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1834  
1835  
1836  
1837  
1838  
1839  
1840  
1841  
1842  
1843

|                 |     |   |
|-----------------|-----|---|
| 827.03 (2) (b)  | 2nd | Neglect of a child causing great bodily harm, disability, or disfigurement.         |
| 827.04 (3)      | 3rd | Impregnation of a child under 16 years of age by person 21 years of age or older.   |
| 837.05 (2)      | 3rd | Giving false information about alleged capital felony to a law enforcement officer. |
| 838.015         | 2nd | Bribery.  |
| 838.016         | 2nd | Unlawful compensation or reward for official behavior.                              |
| 838.021 (3) (a) | 2nd | Unlawful harm to a public servant.  |
| 838.22          | 2nd | Bid tampering.  |
| 843.0855 (2)    | 3rd | Impersonation of a public officer or employee.                                      |
| 843.0855 (3)    | 3rd | Unlawful simulation of legal process.   |

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1844

843.0855(4) 3rd Intimidation of a public officer or employee.

1845

847.0135(3) 3rd Solicitation of a child, via a computer service, to commit an unlawful sex act.

1846

847.0135(4) 2nd Traveling to meet a minor to commit an unlawful sex act.

1847

872.06 2nd Abuse of a dead human body.

1848

874.05(2)(b) 1st Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.

1849

874.10 1st,PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or

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|      |  |
|------|--|
| 1850 | state, county, or municipal park or publicly owned recreational facility or community center.  |
| 1851 | <p>893.13(1)(e)1.            1st    Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.</p> |
| 1852 | <p>893.13(4)(a)            1st    Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).</p>  |
| 1853 | <p>893.135(1)(a)1.        1st    Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.</p>  |
| 1854 | <p>893.135(1)(b)1.a.      1st    Trafficking in cocaine, more than 28 grams, less than 200 grams.</p>  |
| 1854 | <p>893.135(1)(c)1.a.      1st    Trafficking in illegal drugs, more than 4 grams, less than 14</p>   |



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1855

grams.

893.135(1)(c)2.a. 1st Trafficking in hydrocodone, 14  
grams or more, less than 28  
grams.

1856

893.135(1)(c)2.b. 1st Trafficking in hydrocodone, 28  
grams or more, less than 50  
grams.

1857

893.135(1)(c)3.a. 1st Trafficking in oxycodone, 7  
grams or more, less than 14  
grams.

1858

893.135(1)(c)3.b. 1st Trafficking in oxycodone, 14  
grams or more, less than 25  
grams.

1859

893.135(1)(d)1. 1st Trafficking in phencyclidine,  
more than 28 grams, less than  
200 grams.

1860

893.135(1)(e)1. 1st Trafficking in methaqualone,  
more than 200 grams, less than  
5 kilograms.

1861

893.135(1)(f)1. 1st Trafficking in amphetamine,  
more than 14 grams, less than  
28 grams.

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1862

893.135(1)(g)1.a. 1st Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

1863

893.135(1)(h)1.a. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.

1864

893.135(1)(j)1.a. 1st Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

1865

893.135(1)(k)2.a. 1st Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

1866

893.1351(2) 2nd Possession of place for trafficking in or manufacturing of controlled substance.

1867

896.101(5)(a) 3rd Money laundering, financial transactions exceeding \$300 but less than \$20,000.

1868

896.104(4)(a)1. 3rd Structuring transactions to evade reporting or registration requirements, financial

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1869

transactions exceeding \$300 but less than \$20,000.

943.0435 (4) (c)

2nd

Sexual offender vacating permanent residence; failure to comply with reporting requirements.

1870

943.0435 (8)

2nd

Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

1871

943.0435 (9) (a)

3rd

Sexual offender; failure to comply with reporting requirements.

1872

943.0435 (13)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

1873

943.0435 (14)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1874

944.607 (9)

3rd

Sexual offender; failure to

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1875

comply with reporting requirements.

944.607(10)(a)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

1876

944.607(12)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

1877

944.607(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1878

985.4815(10)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

1879

985.4815(12)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

1880

985.4815(13)

3rd

Sexual offender; failure to report and reregister; failure

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to respond to address  
 verification; providing false  
 registration information.

1881

1882

1883

1884

1885

Section 45. For the purpose of incorporating the amendment  
 made by this act to section 838.022, Florida Statutes, in a  
 reference thereto, paragraph (d) of subsection (3) of section  
 921.0022, Florida Statutes, is reenacted to read:

1886

921.0022 Criminal Punishment Code; offense severity ranking  
 chart.—

1887

1888

(3) OFFENSE SEVERITY RANKING CHART

1889

(d) LEVEL 4

1890

1891

| Florida<br>Statute | Felony<br>Degree | Description |
|--------------------|------------------|-------------|
|--------------------|------------------|-------------|

1892

|                |     |   |
|----------------|-----|---|
| 316.1935(3)(a) | 2nd | Driving at high speed or with<br>wanton disregard for safety<br>while fleeing or attempting to<br>elude law enforcement officer<br>who is in a patrol vehicle with<br>siren and lights activated. |
|----------------|-----|---|

1893

|             |     |  |
|-------------|-----|--|
| 499.0051(1) | 3rd | Failure to maintain or deliver<br>pedigree papers. |
|-------------|-----|--|

1894

|             |     |   |
|-------------|-----|---|
| 499.0051(2) | 3rd | Failure to authenticate<br>pedigree papers. |
|-------------|-----|---|

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|      |                 |     |  |
|------|-----------------|-----|--|
| 1895 | 499.0051 (6)    | 2nd | Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.  |
| 1896 | 517.07 (1)      | 3rd | Failure to register securities.  |
| 1897 | 517.12 (1)      | 3rd | Failure of dealer, associated person, or issuer of securities to register.                   |
| 1898 | 784.07 (2) (b)  | 3rd | Battery of law enforcement officer, firefighter, etc.  |
| 1899 | 784.074 (1) (c) | 3rd | Battery of sexually violent predators facility staff.  |
| 1900 | 784.075         | 3rd | Battery on detention or commitment facility staff.   |
| 1901 | 784.078         | 3rd | Battery of facility employee by throwing, tossing, or expelling certain fluids or materials. |
| 1902 | 784.08 (2) (c)  | 3rd | Battery on a person 65 years of age or older.  |
| 1903 | 784.081 (3)     | 3rd | Battery on specified official or employee.   |

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|      |             |     |  |
|------|-------------|-----|--|
| 1904 | 784.082 (3) | 3rd | Battery by detained person on visitor or other detainee.   |
| 1905 | 784.083 (3) | 3rd | Battery on code inspector.   |
| 1906 | 784.085     | 3rd | Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.   |
| 1907 | 787.03 (1)  | 3rd | Interference with custody; wrongly takes minor from appointed guardian.  |
| 1908 | 787.04 (2)  | 3rd | Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.                                    |
| 1909 | 787.04 (3)  | 3rd | Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person. |
| 1910 | 787.07      | 3rd | Human smuggling.   |
| 1911 | 790.115 (1) | 3rd | Exhibiting firearm or weapon   |

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1912  
1913  
1914  
1915  
1916  
1917  
1918  
1919

within 1,000 feet of a school.

790.115 (2) (b) 3rd Possessing electric weapon or device, destructive device, or other weapon on school property.

790.115 (2) (c) 3rd Possessing firearm on school property.

800.04 (7) (c) 3rd Lewd or lascivious exhibition; offender less than 18 years.

810.02 (4) (a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

810.02 (4) (b) 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

810.06 3rd Burglary; possession of tools.

810.08 (2) (c) 3rd Trespass on property, armed with firearm or dangerous weapon.



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1920 812.014 (2) (c) 3. 3rd Grand theft, 3rd degree \$10,000  
or more but less than \$20,000.

1921 812.014 (2) (c) 4.- 3rd Grand theft, 3rd degree, a  
10. will, firearm, motor vehicle,  
livestock, etc.

1922 812.0195 (2) 3rd Dealing in stolen property by  
use of the Internet; property  
stolen \$300 or more.

1923 817.563 (1) 3rd Sell or deliver substance other  
than controlled substance  
agreed upon, excluding s.  
893.03(5) drugs.

1924 817.568 (2) (a) 3rd Fraudulent use of personal  
identification information.

1925 817.625 (2) (a) 3rd Fraudulent use of scanning  
device or reencoder.

1926 828.125 (1) 2nd Kill, maim, or cause great  
bodily harm or permanent  
breeding disability to any  
registered horse or cattle.

837.02 (1) 3rd Perjury in official  
proceedings.

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|      |                  |     |   |
|------|------------------|-----|---|
| 1927 | 837.021 (1)      | 3rd | Make contradictory statements in official proceedings.  |
| 1928 | 838.022          | 3rd | Official misconduct.  |
| 1929 | 839.13 (2) (a)   | 3rd | Falsifying records of an individual in the care and custody of a state agency.                                    |
| 1930 | 839.13 (2) (c)   | 3rd | Falsifying records of the Department of Children and Families.  |
| 1931 | 843.021          | 3rd | Possession of a concealed handcuff key by a person in custody.  |
| 1932 | 843.025          | 3rd | Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication. |
| 1933 | 843.15 (1) (a)   | 3rd | Failure to appear while on bail for felony (bond estreature or bond jumping).                                     |
| 1934 | 847.0135 (5) (c) | 3rd | Lewd or lascivious exhibition using computer; offender less   |

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|      |                   |     |  |
|------|-------------------|-----|--|
| 1935 |                   |     | than 18 years.   |
|      | 874.05 (1) (a)    | 3rd | Encouraging or recruiting another to join a criminal gang.   |
| 1936 |                   |     |  |
|      | 893.13 (2) (a) 1. | 2nd | Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs). |
| 1937 |                   |     |  |
|      | 914.14 (2)        | 3rd | Witnesses accepting bribes.  |
| 1938 |                   |     |  |
|      | 914.22 (1)        | 3rd | Force, threaten, etc., witness, victim, or informant.  |
| 1939 |                   |     |  |
|      | 914.23 (2)        | 3rd | Retaliation against a witness, victim, or informant, no bodily injury.                               |
| 1940 |                   |     |  |
|      | 918.12            | 3rd | Tampering with jurors.   |
| 1941 |                   |     |  |
|      | 934.215           | 3rd | Use of two-way communications device to facilitate commission of a crime.                            |

1942

1943       Section 46. As provided in s. 112.322(3), Florida Statutes,

1944 the Commission on Ethics is authorized to render advisory

1945 opinions to any public officer, candidate for public office, or

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1946 public employee regarding the application of part III of chapter  
1947 112, Florida Statutes, including the amendments made by this  
1948 act.

1949 Section 47. The Legislature finds that a proper and  
1950 legitimate state purpose is served when internal controls are  
1951 established to prevent and detect fraud, waste, and abuse and to  
1952 safeguard and account for government funds and property.  
1953 Therefore, the Legislature determines and declares that this act  
1954 fulfills an important state interest.

1955 Section 48. This act shall take effect October 1, 2016.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/16  
Meeting Date

686  
Bill Number (if applicable)

Topic Government Accountability

Name Ben Wilcox

Amendment Barcode (if applicable)

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

Address 1719 Old Fort Dr.  
Street

Phone 544-4448

Tall. FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Common Cause Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

2-16-16

*Meeting Date*

686

*Bill Number (if applicable)*

Topic Government Accountability

*Amendment Barcode (if applicable)*

Name Catherine Baer

Job Title Chair

Address 1421 Woodgate Way

Phone \_\_\_\_\_

*Street*

Tallahassee

FL

32308

Email \_\_\_\_\_

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing The Tea Party 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)

2-16-16  
Meeting Date

5B 686  
Bill Number (if applicable)

Topic Ethics

Name Wiley Horton

Amendment Barcode (if applicable)

Job Title Commissioner, FL Commission on Ethics

Address 325 John Knox Rd, Bldg E, Ste 200

Phone 850-488-7864

Street

Tallahassee, FL 32303

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Commission on Ethics

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 / 16 / 2016

Meeting Date

Topic \_\_\_\_\_

Name BRIAN PITTS

Bill Number 686

Job Title TRUSTEE

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

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/14

Meeting Date

686

Bill Number (if applicable)

Topic Government Acc.

Amendment Barcode (if applicable)

Name Greg Pound

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

Address 9166 Sunrise Dr  
Street

Phone \_\_\_\_\_

Largo Fla 33773  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



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

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 1520

INTRODUCER: Community Affairs Committee and Senator Gaetz

SUBJECT: Tourist Development Taxes

DATE: February 10, 2016

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Present | Yeatman        | CA        | <b>Fav/CS</b> |
| 2. |         |                | ATD       |               |
| 3. |         |                | FP        |               |

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1520 authorizes a county located adjacent to the Gulf of Mexico or the Atlantic Ocean to use up to 10 percent of the revenue received from existing transient rental taxes to reimburse expenses incurred in providing public safety services. Public safety services include emergency medical services and law enforcement services that are needed to address impacts related to increased tourism and visitors in an area. To receive reimbursement, the county must:

- Generate a minimum of \$10 million in annual proceeds from any tax, or any combination of taxes, authorized pursuant to the Local Option Tax Development Act in s. 125.0104, F.S.;
- Have at least three municipalities;
- Have an estimated population of less than 225,000, excluding the inmate population; and
- Not receive revenues from taxes levied pursuant to s. 125.0108, F.S.

The board of county commissioners must approve reimbursement by majority vote upon receipt of a recommendation from the tourist development council.

**II. Present Situation:**

Local option tourist taxes are significant revenue sources to Florida's county governments and represent important funding mechanisms for a variety of tourism-related expenditures such as beach and shoreline maintenance, construction of convention centers and professional sports franchise facilities, and tourism promotion.<sup>1</sup>

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<sup>1</sup> Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at <http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf> (last visited Feb. 10, 2016).

The Local Option Tourist Development Act<sup>2</sup> authorizes counties to levy five separate tourist development taxes on transient rental transactions. Depending on a county's eligibility to levy, the tax rate varies from a minimum of 3 percent to a maximum of 6 percent. The levies may be authorized by vote of the county's governing authority or referendum approval. The revenues generated by the tax may be used in various ways to promote tourism, including capital construction of tourism-related facilities. The authorized uses of each local option tax vary according to the particular levy. The following taxes may be levied under the Local Option Tourist Development Act:

- The tourist development tax may be levied at the rate of 1 or 2 percent.<sup>3</sup>
- An additional tourist development tax of 1 percent may be levied by counties that have previously levied a tourist development tax at the 1 or 2 percent rate for at least 3 years.<sup>4</sup>
- A professional sports franchise facility tax may be levied up to an additional 1 percent.<sup>5</sup>
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.<sup>6</sup>
- A high tourism impact tax may be levied at an additional 1 percent.<sup>7</sup>

Revenues received by a county from a tax levied under s. 125.0104(3)(c) and (d), F.S., must be used for purposes listed in s. 125.0104(5), F.S. These purposes are:

- The acquisition, construction, extension, enlargement, remodeling, repair, or improvement of:
  - A convention center, sports stadium, sports arena, coliseum, or auditorium that is publicly owned and operated; or
  - An aquarium or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.
- Promotion of a zoo.
- Promotion and advertisement of tourism in the state.
- Funding of convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county.
- In counties with populations less than 100,000, up to 10 percent of tourist development tax revenues may be used for financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

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<sup>2</sup> Section 125.0104, F.S.

<sup>3</sup> Section 125.0104(3)(c), F.S. All 62 counties that levy this tax do so at a rate of 2 percent. Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, *available at* <http://edr.state.fl.us/Content/local-government/data/county-municipal/> (last visited Feb. 10, 2016).

<sup>4</sup> Section 125.0104(3)(d), F.S. Forty-eight of the 59 eligible counties levy this tax. Florida Revenue Estimating Conference, 2016 Florida Tax Handbook, p. 268.

<sup>5</sup> Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism. Thirty-nine of the 67 eligible counties levy this additional tax. *Id.*

<sup>6</sup> Section 125.0104(3)(n) F.S. Twenty-four of the 65 eligible counties levy the additional professional sports franchise facility tax. *Id.*

<sup>7</sup> Section 125.0104(3)(m), F.S. Of the seven counties eligible to levy this tax, only Monroe, Orange, Osceola, and Palm Beach levy it. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds.

- In counties with populations less than 750,000, tourist development tax revenue may be used for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.
- Securing revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

The use of tourist development tax revenue for any purpose not expressly authorized in statute is prohibited.<sup>8</sup>

Section 125.0104(10), F.S., authorizes a county levying taxes on transient rentals to self-administer the tax, if the county adopts an ordinance providing for the local collection and administration of the tax. A county that chooses to self-administer the tax must choose whether to assume all responsibility for auditing the records and accounts of dealers and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate this authority to the Department of Revenue.

The Attorney General previously opined that Nassau County was not authorized by s. 125.0104, F.S., to use tourist development tax revenues to fund additional law enforcement patrols or lifeguards on the beach.<sup>9</sup>

### **Tourist Impact Tax - Section 125.0108, F.S.**

Any county creating a land authority under s. 380.0663(1), F.S., is authorized to levy a 1 percent tax on transient rental facilities within the county area that is designated as an area of critical state concern under Chapter 380, F.S. If the area(s) of critical state concern are greater than 50 percent of the county's total land area, the tax may be levied countywide.

The funds are used to buy property in the area of critical state concern and to offset the loss of ad valorem taxes due to those land acquisitions.

Designated areas of critical state concern include the Big Cypress Area (mainly in Collier County), the Green Swamp Area (in central Florida), the Florida Keys Area (in south Florida), and the Apalachicola Bay Area (in Franklin County). Only Monroe County levies the Tourist Impact Tax.<sup>10</sup>

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<sup>8</sup> Section 125.0104(5)(d), F.S.

<sup>9</sup> Op. Atty Gen. Fla. 90-55 (1990).

<sup>10</sup> Fl. Dep't of Revenue, County Local Option Transient Tax Rates, DR-15TDT.

### III. Effect of Proposed Changes:

**Section 1** amends s. 125.0104, F.S., to authorize a county located adjacent to the Gulf of Mexico or the Atlantic Ocean to use up to 10 percent of the revenue received from existing transient rental taxes to reimburse expenses incurred in providing public safety services. Public safety services include emergency medical services and law enforcement services that are needed to address impacts related to increased tourism and visitors in an area. If taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

- Generate a minimum of \$10 million in annual proceeds from any tax, or any combination of taxes, authorized pursuant to the Local Option Tax Development Act in s. 125.0104, F.S.;
- Have at least three municipalities;
- Have an estimated population of less than 225,000, excluding the inmate population; and
- Not receive revenues from taxes levied pursuant to s. 125.0108, F.S. Section 125.0108, F.S., authorizes any county creating a land authority pursuant to s. 380.0063(1), F.S., to levy a 1 percent tax, subject to referendum approval, on transient rental facilities within the county area designated as being of critical state concern pursuant to ch. 380, F.S.

The board of county commissioners must approve reimbursement by majority vote upon receipt of a recommendation from the tourist development council.

**Section 2** provides an effective date of July 1, 2016.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill authorizes affected counties to use an existing source of revenue to fund public safety services. In the alternative, these services likely would continue to be funded by county general revenue funds.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 125.0104 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 Community Affairs on February 16, 2016:**

- Authorizes a county located adjacent to the Gulf of Mexico or the Atlantic Ocean to use up to 10 percent of the revenue received from existing transient rental taxes to reimburse expenses incurred in providing public safety services. Public safety services include emergency medical services and law enforcement services that are needed to address impacts related to increased tourism and visitors in an area. If taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:
  - Generate a minimum of \$10 million in annual proceeds from any tax, or any combination of taxes, authorized pursuant to the Local Option Tax Development Act in s. 125.0104, F.S.;
  - Have at least three municipalities;
  - Have an estimated population of less than 225,000, excluding the inmate population; and
  - Not receive revenues from taxes levied pursuant to s. 125.0108, F.S.
- Requires the board of county commissioners to approve reimbursement by majority vote upon receipt of a recommendation from the tourist development council.

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<sup>11</sup> Ad valorem property taxes are a significant source for a county's general revenue fund.

B. Amendments:

None.

---

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

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639098

LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 02/16/2016 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

The Committee on Community Affairs (Bradley) recommended the following:

**Senate Amendment**

Delete lines 17 - 23  
and insert:

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical



639098

11 services as defined in s. 401.107(3), and law enforcement  
12 services, which are needed to address impacts related to  
13 increased tourism and visitors to an area. However, if taxes  
14 collected pursuant to this section are used to reimburse  
15 emergency medical services or public safety services for tourism  
16 or special events, the governing board of a county or  
17 municipality may not use such taxes to supplant the normal  
18 operating expenses of an emergency services department, a fire  
19 department, a sheriff's office, or a police department. To  
20 receive reimbursement, the county must:

21 1. Generate a minimum of \$10 million in annual proceeds  
22 from any tax, or any combination of taxes, authorized to be  
23 levied pursuant to this section;

24 2. Have at least three municipalities; and

25 3. Have an estimated population of less than 225,000  
26 according to the most recent population estimate prepared  
27 pursuant to s. 186.901, excluding the inmate population.

28  
29 The board of county commissioners must by majority vote approve  
30 reimbursement made pursuant to this paragraph upon receipt of a  
31 recommendation from the tourist development council.

By Senator Gaetz

1-00465A-16

20161520\_\_

1                   A bill to be entitled  
2           An act relating to tourist development taxes; amending  
3           s. 125.0104, F.S.; specifying additional uses for  
4           revenues received from tourist development taxes for  
5           certain coastal counties; conforming a cross-  
6           reference; providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:  
9

10           Section 1. Paragraph (c) of subsection (5) of section  
11   125.0104, Florida Statutes, is redesignated as paragraph (d),  
12   present paragraph (d) is amended, and a new paragraph (c) is  
13   added to that subsection, to read:

14           125.0104 Tourist development tax; procedure for levying;  
15   authorized uses; referendum; enforcement.—

16           (5) AUTHORIZED USES OF REVENUE.—

17           (c) A coastal county with at least nine municipalities and  
18   an estimated population of less than 225,000 according to the  
19   most recent population estimate prepared pursuant to s. 186.901,  
20   excluding the inmate population, may also use tax revenues  
21   received pursuant to this section to fund beach safety personnel  
22   and lifeguard operational activities in areas with public  
23   access.

24           (e)~~(d)~~ Any use of the local option tourist development tax  
25   revenues collected pursuant to this section for a purpose not  
26   expressly authorized by paragraph (3)(l) or paragraph (3)(n) or  
27   paragraph (a), paragraph (b), ~~or~~ paragraph (c), or paragraph (d)  
28   of this subsection is expressly prohibited.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/16  
Meeting Date

1520  
Bill Number (if applicable)

Topic SB 1520

639098  
Amendment Barcode (if applicable)

Name Prebble Ramswell

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

Address 14 County Club Dr E  
Street

Phone 850 714 7744

Destin FL 32541  
City State Zip

Email prebble@prebble Ramswell.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**

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

2-16-16

Meeting Date

Topic Tourist Development Taxes

Name Sheriff Larry Ashley

Job Title Sheriff

Address 50 2nd Street

Street

Phone \_\_\_\_\_

Shalimar FL 32579

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Okaloosa Sheriff's Office

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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1520  
Bill Number (if applicable)

on the  
Amendment Barcode (if applicable)  
Amendment

THE FLORIDA SENATE

APPEARANCE RECORD

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

Feb. 16, 2016  
Meeting Date

1520  
Bill Number (if applicable)

Topic TOURIST TAX EXPANSION -

Amendment Barcode (if applicable)

Name Jacqueline L. Johnson

Job Title Senior VP Lakeland Convention & Visitors Bureau

Address 35 Lake Morton Dr  
Street

Phone 803-688-8551 ext 22

Lakeland FL 33801  
City State Zip

Email jackie

Speaking:  For  Against  Information

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

Representing Lakeland Area Chamber of Commerce & Lakeland Hotel & Motel Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2/16/16  
Meeting Date

1520  
Bill Number (if applicable)

Topic Tourist Development Taxes

Amendment Barcode (if applicable)

Name Amy Jamieson

Job Title Ft. Walton Beach Council Member

Address 211 Chateaugay St.  
Street  
Ft. Walton Beach FL 32548  
City State Zip

Phone 850-240-4669

Email dreams@gnt.net  
ajamieson@fwb.org

Speaking:  For  Against  Information

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

Representing Ft Walton Beach, FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

02/14/2014  
Meeting Date

SB 1520  
Bill Number (if applicable)

Topic TOURIST DEVELOPMENT TAXES

Amendment Barcode (if applicable)

Name MICHAEL BEEDIE

Job Title CITY MANAGER

Address 107 MIRACLE STRIP PARKWAY SW  
Street

Phone (850) 461-2687

FORT WALTER BEACH FL 32548  
City State Zip

Email MBEEDIE@FWB.ORG

Speaking:  For  Against  Information

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

Representing CITY OF FORT WALTER BEACH

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/16

Meeting Date

SB 1520

Bill Number (if applicable)

Topic SB 1520

Amendment Barcode (if applicable)

Name Therese White

Job Title General Manager - Hernando County TDC Chair Person

Address 672 Commercial Way

Phone 352-596-2007

Street

Spring Hill

FL

34606

City

State

Zip

Email gm@Motel6SpringHill.com

Speaking:  For  Against  Information

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

Representing Motel 6 Spring Hill - Adventure Coast TDC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/16  
Meeting Date

SB 1520  
Bill Number (if applicable)

Topic Tourist Development taxes

Amendment Barcode (if applicable)

Name Andy Palmer

Job Title Lobbyist

Address 119 S. Monroe St., Ste 200  
Street

Phone 850-205-9000

Tallahassee FL 32301  
City State Zip

Email andy.palmer@mhdfirm.com

Speaking:  For  Against  Information

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

Representing Florida Restaurant & Lodging Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/16

Meeting Date

1520

Bill Number (if applicable)

Topic Tourist Development Tax

Name Cory Skates

Amendment Barcode (if applicable)

Job Title President

Address 35 Lake Morton Dr.

Street

Phone 407 721 8285

Lakeland

FL

33801

City

State

Zip

Email Cskates@lakelandchamber.com

Speaking:  For  Against  Information

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

Representing Lakeland Area Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

2-16-16  
Meeting Date

1520  
Bill Number (if applicable)

Topic IDT

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757  
Street

Phone 850-701-3621

Tall FL 32302  
City State Zip

Email ahughes@lccities.com

Speaking:  For  Against  Information

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

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

2/16/2016  
Meeting Date

1520  
1250  
Bill Number (if applicable)

Topic Tourist Development Taxes

Amendment Barcode (if applicable)

Name Shawn Foster

Job Title Lobbyist

Address 5957 Riviera Lane  
Street

Phone 727-808-4131

New Port Richey, FL  
City State Zip

Email foster@scgroup.us

Speaking:  For  Against  Information

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

Representing Herndon County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2-16-16  
Meeting Date

1520  
Bill Number (if applicable)

Topic Tourist Development Taxes

Name Armando Ibarra

Job Title Lobbyist

Address 951 Brickell Ave. #701  
Street

Phone 786-514-2965

Miami FL 33131  
City State Zip

Email armando@aiadvisory.co

Speaking:  For  Against  Information

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

Representing Greater Miami & the Beaches Hotel Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/16  
Meeting Date

SB 1520  
Bill Number (if applicable)

Topic SB 1520/Expansion of the TDT

Name Tammy J Heon

Amendment Barcode (if applicable)

Job Title Manager, Tourism Development

Address 15800 Flight Path Dr  
Street

Phone 352-540-5051

Brooksville FL 34604  
City State Zip

Email theon@FloridasAdventureCoast.com

Speaking:  For  Against  Information

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

Representing Floridas Adventure Coast Visitors Bureau

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-16-16

Meeting Date

1520

Bill Number (if applicable)

Topic TOT

Name Sherry Pedonesi

Amendment Barcode (if applicable)

Job Title Chinsegut Hill Retreat President

Address 22495 Chinsegut Hill Rd,

Street

Brooksville

City

FL

State

34601

Zip

Phone 352-599-5400

Email spedonesi@chinseguthillretreat.com

Speaking:  For  Against  Information

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

Representing Chinsegut Hill Retreat

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2 / 16 / 2016

Meeting Date

Topic \_\_\_\_\_

Bill Number 1580

Name BRIAN PITTS

(if applicable)

Job Title TRUSTEE

Amendment Barcode \_\_\_\_\_

(if applicable)

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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





## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**  
302 Senate Office Building

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

| DATE     | COMM | ACTION          |
|----------|------|-----------------|
| 1/7/16   | SM   | Fav/1 amendment |
| 01/27/16 | JU   | Fav/CS          |
| 02/16/16 | CA   | Favorable       |
|          | FP   |                 |

January 7, 2016

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

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

#### SPECIAL MASTER'S FINAL REPORT

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

#### CURRENT STATUS:

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

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

determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

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

The prior claim bill, SB 54 (2011), as filed, is effectively identical to the claim bill filed for the 2015 Legislative Session. Therefore, the previous Special Master report is applicable to the current claim bill. However, the current claim bill does not include amendments that were made to SB 54 (2011). One amendment was made in committee to adopt the Special Master's recommendations for revision of factual statements in the bill. This amendment was based on the Special Master's factual findings, and I recommend the same amendment to the current bill. SB 54 (2011) was also amended on the floor to reduce the amount of the claim from \$2,550,000 to \$550,000.

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

January 7, 2016

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Respectfully submitted,

Scott Clodfelter  
Senate Special Master

cc: Secretary of the Senate

**CS by Judiciary:**

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

By the Committee on Judiciary; and Senator Flores

590-02656-16

201646c1

1 A bill to be entitled

2 An act for the relief of Melvin and Alma Colindres by  
3 the City of Miami; providing for an appropriation to  
4 compensate them for the wrongful death of their son,  
5 Kevin Colindres, which occurred as a result of the  
6 negligence of police officers of the City of Miami;  
7 providing a limitation on the payment of fees and  
8 costs; providing an effective date.  
9

10 WHEREAS, on December 12, 2006, Melvin and Alma Colindres  
11 called the City of Miami police department seeking assistance  
12 with their severely autistic and intellectually disabled son,  
13 Kevin Colindres, and

14 WHEREAS, the police officers who arrived at the  
15 Colindreses' home were required, according to the City of  
16 Miami's policies and procedures, to have been trained on  
17 interaction with and restraint of persons with intellectual  
18 disabilities, such as Kevin Colindres, along with appropriate  
19 monitoring of an in-custody suspect's vital signs and the  
20 administration of cardiopulmonary resuscitation (CPR), and

21 WHEREAS, at the time of the first police officer's arrival  
22 at the Colindreses' home, Kevin Colindres was calmly seated on  
23 the couch in the living room, and

24 WHEREAS, the initial police officer who arrived at the  
25 Colindreses' house followed her training and the City of Miami's  
26 policies and procedures and approached Kevin Colindres in a  
27 quiet and nonthreatening manner and the situation remained  
28 stable, and

29 WHEREAS, the backup police officers violated their training  
30 and the City of Miami's policies and procedures by aggressively  
31 approaching Kevin Colindres, causing Kevin to attempt to leave  
32 the room, and

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201646c1

33 WHEREAS, the backup police officers then placed Kevin  
34 Colindres into custody, handcuffing his hands behind his back,  
35 taking him out of the house, and placing him prone on the ground  
36 and applying a hobble restraint to his ankles, and

37 WHEREAS, in violation of their training and the City of  
38 Miami's policies and procedures, the backup police officers left  
39 Kevin Colindres prone on the ground and applied weight to his  
40 back, and

41 WHEREAS, in violation of their training and the City of  
42 Miami's policies and procedures, the backup police officers left  
43 Kevin Colindres in this position for more than 10 minutes, and

44 WHEREAS, in violation of their training and the City of  
45 Miami's policies and procedures, the backup police officers  
46 failed to appropriately check Kevin Colindres' vital signs, and

47 WHEREAS, upon realizing that Kevin Colindres had stopped  
48 breathing, and in violation of their training and the City of  
49 Miami's policies and procedures, the backup police officers  
50 failed to administer CPR, and

51 WHEREAS, in violation of their training and the City of  
52 Miami's policies and procedures, the backup police officers  
53 failed to advise the fire rescue department of the urgency of  
54 the matter, thereby delaying the response by fire rescue  
55 personnel, and

56 WHEREAS, Kevin Colindres asphyxiated, which caused him to  
57 suffer anoxic encephalopathy, and, on January 5, 2007, he died  
58 as a result of his injuries, and

59 WHEREAS, the backup police officers of the City of Miami  
60 were negligent in their actions, which directly resulted in  
61 Kevin Colindres' death, and

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201646c1

62 WHEREAS, a tort claim was filed on behalf of Melvin and  
63 Alma Colindres, as personal representatives of the Estate of  
64 Kevin Colindres, Case No. 07-13294 CA 01, in the Circuit Court  
65 for the Eleventh Judicial Circuit, and

66 WHEREAS, the City of Miami filed a Motion for Arbitration  
67 that was granted by the court, an arbitration was held, and the  
68 arbitrator awarded the Estate of Kevin Colindres \$2.75 million,  
69 and

70 WHEREAS, the City of Miami chose not to seek a de novo  
71 trial, and the court granted a final judgment in favor of the  
72 Estate of Kevin Colindres in the amount of \$2.75 million, plus  
73 interest at the rate of 6 percent per annum, and

74 WHEREAS, the City of Miami has paid \$200,000 to Melvin and  
75 Alma Colindres, as personal representatives of the Estate of  
76 Kevin Colindres, pursuant to its statutory limits of liability,  
77 and

78 WHEREAS, the City of Miami has a private insurance policy  
79 to pay all claims in excess of \$500,000, NOW, THEREFORE,

80  
81 Be It Enacted by the Legislature of the State of Florida:

82  
83 Section 1. The facts stated in the preamble to this act are  
84 found and declared to be true.

85 Section 2. The City of Miami is authorized and directed to  
86 appropriate from funds of the city not otherwise appropriated,  
87 as well as insurance, and to draw a warrant in the sum of  
88 \$550,000 payable to Melvin and Alma Colindres, as personal  
89 representatives of the Estate of Kevin Colindres, as  
90 compensation for the wrongful death of Kevin Colindres due to



590-02656-16

201646c1

91 the negligence by police officers of the City of Miami.

92 Section 3. The amount paid by the City of Miami pursuant to  
93 s. 768.28, Florida Statutes, and the amount awarded under this  
94 act are intended to provide the sole compensation for all  
95 present and future claims arising out of the factual situation  
96 described in this act which resulted in Kevin Colindres' death.  
97 The total amount paid for attorney fees, lobbying fees, costs,  
98 and other similar expenses relating to this claim may not exceed  
99 25 percent of the total amount awarded under this act.

100 Section 4. This act shall take effect upon becoming a law.



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** February 3, 2016

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

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

*Anitere Flores*

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Senator Anitere Flores  
Florida Senate, District 37

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

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

Feb. 16, 2016

*Meeting Date*

SB 46

*Bill Number (if applicable)*

Topic Colindres Claim Bill

Name Jason Unger

*Amendment Barcode (if applicable)*

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

Address 301 South Bronough Street #600

*Street*

Phone 577-9090

TLH

FL

32301

*City*

*State*

*Zip*

Email junger@gray-robinson.com

Speaking:  For  Against  Information

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

Representing Meadowbrook Insurance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



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

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 418

INTRODUCER: Senator Smith

SUBJECT: Law Enforcement Officer Body Cameras

DATE: February 15, 2016

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

|    | ANALYST         | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|-----------------|----------------|-----------|------------------|
| 1. | <u>Erickson</u> | <u>Cannon</u>  | <u>CJ</u> | <b>Favorable</b> |
| 2. | <u>Cochran</u>  | <u>Yeatman</u> | <u>CA</u> | <b>Favorable</b> |
| 3. | _____           | _____          | <u>FP</u> | _____            |

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**I. Summary:**

SB 418 creates s. 943.1718, F.S., pertaining to body cameras. The bill requires a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras. The bill specifies what must be included in those policies and procedures, such as general guidelines for the proper use, maintenance, and storage of body cameras and limitations on recording law enforcement-related encounters and activities. The bill also requires these agencies to conduct training, retain audio and video data recorded by body cameras, and perform periodic review of practices.

The bill specifies that ch. 934, F.S. (interception of communications), does not apply to body camera recordings made by law enforcement agencies that elect to use body cameras.

**II. Present Situation:**

**Body-Worn Cameras**

Body-Worn Cameras (BWCs) or “body cameras” are currently being used or considered for use by many law enforcement agencies. BWCs are mobile audio and video devices worn by officers to record what they see and hear. They can record officer interactions that previously could only be captured by in-car or interrogation room camera systems.<sup>1</sup>

A 2014 study of BWCs noted some of the perceived benefits and perceived concerns and problems regarding their use:

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<sup>1</sup> National Institute of Justice, *A Primer on Body-Worn Cameras for Law Enforcement*, p. 5 (September 2012), available at <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf> (last visited on February 11, 2016).

***Perceived Benefits:***

- BWCs increase transparency and citizen views of police legitimacy;
- BWCs have a civilizing effect, resulting in improved behavior among both police officers and citizens;
- BWCs have evidentiary benefits that expedite resolution of citizen complaints or lawsuits and that improve evidence for arrest and prosecution; and
- BWCs provide opportunities for police training.<sup>2</sup>

***Perceived Concerns and Problems:***

- BWCs create concerns for citizen and police officer privacy;
- BWCs create concerns for officer health and safety;
- BWCs require investments in terms of training and policy development; and
- BWCs require substantial commitment of finances, resources, and logistics.<sup>3</sup>

Data provided by the Florida Police Chiefs Association in October of 2015 indicated that out of 301 police departments in Florida, 18 police departments used body cameras, and another 10 agencies had pilot body camera programs in place.<sup>4</sup>

Florida law does not currently require agencies to have policies in place that govern the use of such BWCs.

**2015 Legislation on Body Cameras**

During the 2015 Legislative Session, legislation was passed and signed into law that makes audio or video data recorded by a law enforcement body camera confidential and exempt.<sup>5</sup> The body camera recording is confidential and exempt if it is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.<sup>6</sup>

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<sup>2</sup> White, Michael D., 2014, *Police Officer Body-Worn Cameras Assessing the Evidence*, Washington, DC: Office of Community Oriented Policing Services, p. 6-7 (2014), available at <https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf> (last visited on February 11, 2016).

<sup>3</sup> *Id.* at pp. 7-9.

<sup>4</sup> Telephone communication between Committee on Criminal Justice staff and the Florida Police Chief Association (FPCA) (January 27, 2015); Analysis of HB 93, House Appropriations Committee (January 21, 2016). Additionally, FPCA staff indicated that in 2015 that there were 262 police departments in Florida, as well as an additional 39 law enforcement agencies that serve university and college campuses and airports. FPCA staff informed Senate Criminal Justice staff that the 2015 data provided may not reflect current data (if collected) but FPCA staff does not believe that any changes in the 2015 data would alter the statement in this analysis that only a small number of Florida law enforcement agencies have elected to use body cameras.

<sup>5</sup> Ch. 2015-41, L.O.F. Section 119.071(2)(l), F.S. The exemption is also retroactive. Section 119.071(2)(l)(6), F.S. “Body camera” means a portable electronic recording device that is worn on a law enforcement officer’s body and that records audio and video data in the course of the officer performing his or her official duties and responsibilities. Section 119.071(2)(l)(1)(a), F.S.

<sup>6</sup> Section 119.071(2)(l)(2), F.S.

A body camera recording may be disclosed by a law enforcement agency:

- In furtherance of its official duties and responsibilities; or
- To another governmental agency in the furtherance of its official duties and responsibilities.<sup>7</sup>

A body camera recording, or a portion thereof, must be disclosed by a law enforcement agency:

- To a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording;
- To the personal representative of a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the represented person's presence in the recording;
- To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place.
- Pursuant to a court order.<sup>8</sup>

In addition to any other grounds the court may consider in determining whether to order that a body camera recording be disclosed, the court must consider whether:

- Disclosure is necessary to advance a compelling interest;
- The recording contains information that is otherwise exempt or confidential and exempt under the law;
- The person requesting disclosure is seeking to obtain evidence to determine legal issues in a case in which the person is a party;
- Disclosure would reveal information regarding a person that is of a highly sensitive personal nature;
- Disclosure may harm the reputation or jeopardize the safety of a person depicted in the recording;
- Confidentiality is necessary to prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;
- The recording could be redacted to protect privacy interests; and
- There is good cause to disclose all or portions of a recording.<sup>9</sup>

A law enforcement agency must retain a body camera recording for at least 90 days.<sup>10</sup>

This exemption does not supersede any other public records exemption that existed before or is created after the effective date of this exemption. Those portions of a recording which are protected from disclosure by another public records exemption continue to be exempt or confidential and exempt.<sup>11</sup>

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<sup>7</sup> Section 119.071(2)(1)(3), F.S.

<sup>8</sup> Section 119.071(2)(1)(4), F.S.

<sup>9</sup> Section 119.071(2)(1)(4)(d), F.S.

<sup>10</sup> Section 119.071(2)(1)(5), F.S.

<sup>11</sup> Section 119.071(2)(1)(7), F.S. For example, an exemption that may apply to information in the recording is the exemption for active criminal intelligence information or active criminal investigative information (s. 119.071(2)(c)(1), F.S.).

The General Records Schedule, issued by the Florida Department of State, Division of Library and Information Services, establishes the requirements and timelines for agencies to maintain public records.<sup>12</sup> General Records Schedule GS2 governs the records maintenance and retention requirements for law enforcement, correctional facilities, and district medical examiners.<sup>13</sup> Schedule GS2 does not currently specify a retention requirement for video or audio recordings from body cameras.<sup>14</sup> However, a recording from a body camera could fall under existing areas of the retention schedule, depending on what is recorded. For example, if a body camera records a criminal incident, retention of the recording for most offenses is governed by Item # 129, Criminal Investigative Records, in the Retention Schedule, and must be retained for four anniversary years after the offense is committed.<sup>15</sup>

### **Interception of Communications**

Chapter 934, F.S., governs the security of various types of communications in the state, and limits the ability to intercept, monitor, and record such communications. Chapter 934, F.S., also provides for criminal penalties<sup>16</sup> and civil remedies<sup>17</sup> when communications are intercepted in violation of the chapter. For example, it is a third degree felony<sup>18</sup> to intentionally “intercept”<sup>19</sup> an “oral communication.”<sup>20</sup>

The statute provides for a number of exceptions to this general prohibition.<sup>21</sup> For example, it is lawful for:

- A law enforcement officer to intercept an oral communication if the officer is a party to the communication or one of the parties to the communication has given prior consent to the interception and the purpose of the interception is to obtain evidence of a criminal act;<sup>22</sup> or
- A person to intercept an oral communication when all of the parties to the communication have given prior consent to the interception.<sup>23</sup>

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<sup>12</sup> Rule 1B-24.003, F.A.C.

<sup>13</sup> Florida Department of State, Division of Library and Information Services, *General Records Schedule GS2 (2015)*, available at <http://dos.myflorida.com/media/693578/gso2.pdf> (last visited February 11, 2016).

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

<sup>15</sup> *Id.*, at p. 7-8.

<sup>16</sup> Sections 934.04, 934.215, 934.31, and 934.43, F.S.

<sup>17</sup> Section 934.05, F.S.

<sup>18</sup> A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. ss. 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. Section 775.082(10), F.S.

<sup>19</sup> Section 934.02(3), F.S., defines “intercept” as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.

<sup>20</sup> Section 934.03(1)(a) and (4)(a), F.S. Section 934.02(2), F.S., defines “oral communication” as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.

<sup>21</sup> Section 934.03(2)(a)-(j), F.S.

<sup>22</sup> Section 934.03(2)(c), F.S.

<sup>23</sup> Section 934.03(2)(d), F.S.



The contents of an intercepted communication and any evidence derived from the contents may not be received in evidence in court proceedings and other specified proceedings if the disclosure of the information would violate ch. 934, F.S.<sup>24</sup>

Florida state courts have not addressed whether a body camera recording that records “oral communications” constitutes an “intercept” within the meaning of that term in s. 934.02, F.S. However, the Florida Supreme Court has previously held that other recordings of “oral communications” constituted an “intercept.”<sup>25</sup> Body camera recordings are not expressly addressed in any existing exception in ch. 934, F.S., or otherwise excluded from ch. 934, F.S. Assuming body camera recordings are an “intercept,” some recordings might fall under an existing exception but others might not. Absent the recording falling under a current exception or otherwise being excluded from ch. 934, F.S., it might be in violation of ch. 934, F.S., and therefore inadmissible.

### III. Effect of Proposed Changes:

The bill creates s. 943.1718, F.S., defining a “body camera” as a portable electronic recording device that is worn on a law enforcement officer’s person that records audio and video data of the officer’s law-enforcement-related encounters and activities.

A “law enforcement agency” is defined as an agency that has a primary mission of preventing and detecting crime and enforcing the penal, criminal, traffic, and motor vehicle laws of the state and in furtherance of that primary mission employs law enforcement officers as defined in s. 943.10, F.S. A “law enforcement officer” is any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.<sup>26</sup>

The bill requires a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras. The policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras.
- Any limitations on which law enforcement officers are permitted to wear body cameras.
- Any limitations on law-enforcement-related encounters and activities in which law enforcement officers are permitted to wear body cameras.
- General guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.

---

<sup>24</sup> Section 934.06, F.S.

<sup>25</sup> For a discussion of relevant Florida Supreme Court cases, see *Guilder v. State*, 899 So.2d 412 (Fla. 4th DCA 2005).

<sup>26</sup> Section 943.10(1), F.S. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

The bill requires a law enforcement agency that authorizes its law enforcement officers to wear body cameras to:

- Ensure that all personnel who wear, use, maintain, or store body cameras are trained in the law enforcement agency's policies and procedures concerning them.
- Ensure that all personnel who use, maintain, store, or release audio or video data recorded by body cameras are trained in the law enforcement agency's policies and procedures.
- Retain audio and video data recorded by body cameras in accordance with the requirements of s. 119.021, F.S. (maintenance of public records), except as otherwise provided by law.
- Perform a periodic review of actual agency body camera practices to ensure conformity with the agency's policies and procedures.

The bill provides that ch. 934, F.S. (interception of communications), does not apply to body camera recordings made by law enforcement agencies that elect to use body cameras. This exclusion must be read together with the definition of "body camera" in the bill, which indicates that the device "records audio and video data of the officer's law-enforcement-related encounters and activities." Therefore, if the body camera recording consists of "audio and video data of the officer's law-enforcement-related encounters and activities," it is excluded from ch. 934, F.S. It is not considered an "intercept" and the general prohibition against interception of wire, oral, and electronic communications does not apply to such recording. If the body camera recording does not consist of "audio and video data of the officer's law-enforcement-related encounters and activities," the exclusion does not apply.

The bill is effective upon becoming a law.

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

A. Municipality/County Mandates Restrictions:

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:**

If an agency chooses to use body cameras, the bill may have an indeterminate impact on state expenditures because the bill creates a new requirement for state law enforcement agencies that use body cameras to establish policies and procedures governing body cameras and to train personnel accordingly. There would also be costs associated with purchasing the equipment, data storage, and maintenance.

The bill may also have an indeterminate impact on local expenditures because the bill creates a new requirement for local law enforcement agencies that use body cameras to establish policies and procedures governing body cameras, and to train personnel accordingly. There would also be costs associated with purchasing the equipment, data storage, and maintenance.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 943.1718 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Smith

31-00493-16

2016418\_\_

1                   A bill to be entitled  
2       An act relating to law enforcement officer body  
3       cameras; creating s. 943.1718, F.S.; providing  
4       definitions; requiring a law enforcement agency that  
5       authorizes its law enforcement officers to wear body  
6       cameras to establish policies and procedures  
7       addressing the proper use, maintenance, and storage of  
8       body cameras and the data recorded by body cameras;  
9       requiring such policies and procedures to include  
10      specified information; requiring such a law  
11      enforcement agency to ensure that specified personnel  
12      are trained in the law enforcement agency's policies  
13      and procedures; requiring that data recorded by body  
14      cameras be retained in accordance with specified  
15      requirements; requiring a periodic review of agency  
16      body camera practices to ensure conformity with the  
17      agency's policies and procedures; exempting the  
18      recordings from ch. 934, F.S., relating to security of  
19      communications and surveillance; providing an  
20      effective date.

21  
22       WHEREAS, advancements in technology allow body cameras to  
23      be affordable and practical tools for law enforcement use, and

24       WHEREAS, body cameras can provide a valuable source of  
25      information to both law enforcement and the general public, and

26       WHEREAS, the audio and video recording of police and  
27      citizen interactions allows law enforcement agencies to improve  
28      efforts to reduce crime and properly address citizen complaints,  
29      and

31-00493-16

2016418\_\_

30 WHEREAS, establishing uniform procedural requirements for  
31 the use of body cameras by law enforcement will provide  
32 consistency and reliability throughout the state, and

33 WHEREAS, there are currently no statewide mandatory and  
34 uniform standards or guidelines that apply to use of body  
35 cameras by law enforcement officers, NOW, THEREFORE,

36  
37 Be It Enacted by the Legislature of the State of Florida:  
38

39 Section 1. Section 943.1718, Florida Statutes, is created  
40 to read:

41 943.1718 Body cameras; policies and procedures.-

42 (1) As used in this section, the term:

43 (a) "Body camera" means a portable electronic recording  
44 device that is worn on a law enforcement officer's person that  
45 records audio and video data of the officer's law-enforcement-  
46 related encounters and activities.

47 (b) "Law enforcement agency" means an agency that has a  
48 primary mission of preventing and detecting crime and enforcing  
49 the penal, criminal, traffic, and motor vehicle laws of the  
50 state and in furtherance of that primary mission employs law  
51 enforcement officers as defined in s. 943.10.

52 (c) "Law enforcement officer" has the same meaning as  
53 provided in s. 943.10.

54 (2) A law enforcement agency that authorizes its law  
55 enforcement officers to wear body cameras shall establish  
56 policies and procedures addressing the proper use, maintenance,  
57 and storage of body cameras and the data recorded by body  
58 cameras. The policies and procedures must include:

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59 (a) General guidelines for the proper use, maintenance, and  
60 storage of body cameras.

61 (b) Any limitations on which law enforcement officers are  
62 authorized to wear body cameras.

63 (c) Any limitations on law-enforcement-related encounters  
64 and activities in which law enforcement officers are authorized  
65 to wear body cameras.

66 (d) General guidelines for the proper storage, retention,  
67 and release of audio and video data recorded by body cameras.

68 (3) A law enforcement agency that authorizes its law  
69 enforcement officers to wear body cameras shall:

70 (a) Ensure that all personnel who wear, use, maintain, or  
71 store body cameras are trained in the law enforcement agency's  
72 policies and procedures concerning them.

73 (b) Ensure that all personnel who use, maintain, store, or  
74 release audio or video data recorded by body cameras are trained  
75 in the law enforcement agency's policies and procedures.

76 (c) Retain audio and video data recorded by body cameras in  
77 accordance with the requirements of s. 119.021, except as  
78 otherwise provided by law.

79 (d) Perform a periodic review of actual agency body camera  
80 practices to ensure conformity with the agency's policies and  
81 procedures.

82 (4) Chapter 934 does not apply to body camera recordings  
83 made by law enforcement agencies that elect to use body cameras.

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** February 2, 2016

---

I respectfully request that **Senate Bill #418**, relating to Law Enforcement Officer Body Cameras, be placed on the:

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

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

Senator Christopher L. Smith  
Florida Senate, District 31

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/16  
Meeting Date

SB 0418  
Bill Number (if applicable)

Topic Law Enforcement Body Cameras

Amendment Barcode (if applicable)

Name DENNIS STRANGE

Job Title Captain

Address 2500 West Colonial Dr

Phone 407-254-7000

Street

Del Prado  
City

FL  
State

32804  
Zip

Email dennis.strange@delcofl.net

Speaking:  For  Against  Information

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

Representing Orange County Sheriff's Office

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/2016  
Meeting Date

SB0418  
Bill Number (if applicable)

Topic LAW ENFORCEMENT OFFICER BODY CAMERAS

Name RICHARD FORTIN

Amendment Barcode (if applicable)

Job Title SERGEANT VOLUSZA COUNTY SHERIFFS OFFICE

Address 101 EAST CANAL STREET  
Street

Phone 386-423-3301

NEW SMYRNA FL 32168  
City State Zip

Email R.FORTIN@VCSO.US

Speaking:  For  Against  Information

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

Representing FLORIDA SHERIFFS ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

418

Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date \_\_\_\_\_

Topic \_\_\_\_\_

Name JESS McCARTY

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

Address 111 NW 13<sup>th</sup> ST

Street

City

MIAMI

State

33126

Zip

Phone 305-979-7110

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing MIAMI-DADE COUNTY

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)

2/16/2016

Meeting Date

SB 418

Bill Number (if applicable)

Topic Law Enforcement Officer Body Camera

Name Jeffrey Chudnow

Job Title Chief of Police

Address 400 Alexandria Blvd.

Street

Orlando

City

FL

State

32745

Zip

Phone 407-971-5731

Email jchudnow@cityoforlando.net

Speaking:  For  Against  Information

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

Representing The Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/2016

Meeting Date

Topic \_\_\_\_\_

Name BRIAN PITTS

Bill Number 418

Amendment Barcode \_\_\_\_\_

(if applicable)

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUe SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

SB 418  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic Boy Cameras.

Name Raquel Regalado

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

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

Address 1350 SW 36 Ave  
Street

Phone \_\_\_\_\_

Miami FL 33141  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/2016  
Meeting Date

SB 418  
Bill Number (if applicable)

Topic LEO Body Cameras

Amendment Barcode (if applicable)

Name Matt Riddett

Job Title Lobbyist

Address 300 East Brevard St

Phone \_\_\_\_\_

Street

Tallahassee

Fl

32301

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



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

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

---

BILL: CS/SB 264

INTRODUCER: Community Affairs Committee and Senator Smith

SUBJECT: Special Assessment for Law Enforcement Services

DATE: February 10, 2016

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Present | Yeatman        | CA        | <b>Fav/CS</b> |
| 2. |         |                | FT        |               |
| 3. |         |                | FP        |               |

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 264 authorizes the governing body of a municipality to levy a special assessment for law enforcement services if the governing body of the municipality:

- Apportions the costs of the special assessment among parcels of real property in proportion to the benefit each parcel receives;
- Levies the special assessment at a rate of no more than \$200 per parcel; and
- For the first year of the special assessment levy, reduces the municipal ad valorem millage by an amount equal to the increased revenue that the governing body expects to collect from the special assessment.

The levy must be approved by a majority vote of the electors of the municipality voting in a referendum.

**II. Present Situation:**

**Ad Valorem Tax**

The Florida Constitution provides that counties, municipalities, and special districts may levy ad valorem taxes as provided by law and subject to the following millage limitations:

- Ten mills for county purposes;
- Ten mills for municipal purposes;
- Ten mills for school purposes;
- A millage rate fixed by law for a county furnishing municipal services;
- A millage authorized by law and approved by the voters for special districts; and



- A millage of not more than 1 mill for water management purposes in all areas of the state except the northwest portion of the state which is limited to 1/20th of 1 mill (.05).<sup>1</sup>

### ***Municipal Millage***

Municipal millages are composed of four millage rates:

- General millage is the non-voted millage rate set by the municipality's governing body;
- Debt service millage is the rate necessary to raise taxes for debt service as authorized by a vote of the electors pursuant to art. VII, s. 12 of the Florida Constitution;
- Voted millage is the rate set by the municipality's governing body as authorized by a vote of the electors pursuant to art. VII, s. 9(b) of the Florida Constitution; and
- Dependent special district millage is set by the municipality's governing body pursuant to s. 200.001(5), F.S., added to the municipal millage to which the district is dependent and included as municipal millage for the purpose of the ten-mill cap.<sup>2</sup>

### ***Method of Fixing Millage***

Upon the completion of the assessment of all property, the property appraiser certifies to each taxing authority the taxable value within each taxing authority's jurisdiction.<sup>3</sup> Each taxing authority prepares a tentative budget and proposes a millage rate necessary to fund the tentative budget. The millage rate proposed by each taxing authority must be based on not less than 95 percent of the taxable value according to the certified tax rolls.<sup>4</sup> The Department of Revenue is responsible for ensuring that millage rates are in compliance with the maximum millage rate requirements set forth by law as well as the constitutional millage caps.<sup>5</sup> A public hearing on the proposed millage rate and tentative budget must be held within 65 to 80 days of the certification of the rolls, and a final budget and millage rate must be announced prior to the end of said hearing.<sup>6</sup>

### **Special Assessments**

Special assessments are a revenue source that may be used by local governments to fund certain services and maintain capital facilities. Unlike taxes, these assessments are directly linked to a particular service or benefit. Examples of special assessments include fees for garbage disposal, sewer improvements, fire protection, and rescue services.<sup>7</sup> Counties and municipalities have the authority to levy special assessments based on their home rule powers. Special districts derive their authority to levy these assessments through general law or special act.

---

<sup>1</sup> Fla. Const. art. VII, s. 9.

<sup>2</sup> Office of Economic and Demographic Research, *2015 Local Government Financial Information Handbook*, p. 4 (Dec. 2015) available at <http://edr.state.fl.us/Content/local-government/reports/lgfi15.pdf> (last visited Feb. 11, 2016). See also s. 200.001(2), F.S.

<sup>3</sup> Section 200.065(1), F.S.

<sup>4</sup> Section 200.065(2)(a)1., F.S.

<sup>5</sup> Section 20.21(2)(b), F.S.

<sup>6</sup> Section 200.065(2)(c), F.S.

<sup>7</sup> See *Harris v. Wilson*, 693 So.2d 945 (Fla. 1997); *City of Hallandale v. Meekins*, 237 So.2d 318 (Fla. 4th DCA 1970); *South Trail Fire Control Dist., Sarasota County v. State*, 273 So.2d 380 (Fla. 1973); and *Sarasota County v. Sarasota Church of Christ*, 641 So.2d 900 (Fla. 2d DCA 1994).

As established in Florida case law, an assessment must meet two requirements in order to be classified as a valid special assessment:

- The property assessed must derive a special benefit from the service provided; and
- The assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.<sup>8</sup>

Local governments may collect these special assessments, or “non-ad valorem assessments,” on the annual ad valorem tax bills. Section 197.3632, F.S., provides procedures for including non-ad valorem assessments on annual ad valorem tax bills.

### ***Supplemental Method of Making Local Improvements***

In addition to a municipality’s authority to impose special assessments under its home rule powers, ch. 170, F. S., provides a supplemental and alternative method for making municipal improvements. Specifically, s. 170.201(1), F.S., provides that “the governing body of a municipality may levy and collect special assessments to fund capital improvements and municipal services including, but not limited to, fire protection, emergency medical services, garbage disposal, sewer improvement, street improvement and parking facilities.” The governing body of a municipality may apportion costs of such special assessment on:

- The front or square footage of each parcel of land; or
- An alternative methodology, as long as the amount of the assessment for each parcel of land is not in excess of the proportional benefits as compared to other assessments on other parcels of land.

Although subsection (1) of s. 170.201, F.S., does not explicitly list law enforcement services, the language “including, but not limited to” provides that this is not an exclusive list.

### ***Municipal Service Taxing or Benefit Units***

Counties may establish municipal service taxing or benefit units (MSTUs) for any part or all of the county’s unincorporated area in order to provide a number of county or municipal services. Such services can be funded, in whole or in part, from special assessments.<sup>9</sup> To the extent not inconsistent with general or special law, counties may also create special districts to include both incorporated and unincorporated areas, upon the approval of the affected municipality’s governing body, which may be provided municipal services and facilities from funds derived from service charges, special assessments, or taxes within the district only.<sup>10</sup>

### ***Special Assessments for Law Enforcement Services***

In 1998, the Attorney General’s Office issued Opinion 98-57, stating that “the imposition of special assessments to fund general law enforcement would not appear to be permissible in light of the” Florida Supreme Court (Court) decision, *Lake County v. Water Oak Management*.<sup>11</sup> In *Lake County*, the Fifth District Court of Appeal struck down a special assessment for fire

---

<sup>8</sup> *City of Boca Raton v. State*, 595 So.2d 25, 29 (Fla. 1992).

<sup>9</sup> Section 125.01(1)(q)-(r), F.S.

<sup>10</sup> Section 125.01(5), F.S.

<sup>11</sup> *Op. Atty. Gen. Fla. 98-57* (Sept. 18, 1998) *citing* 695 So.2d 667 (Fla. 1997).

protection services provided by the county on the grounds that there was no special benefit to the properties on which the fire protection special assessment was imposed.

On appeal, the Florida Supreme Court stated that the “test is not whether the services confer a ‘unique’ benefit or are different in type or degree . . . rather the test is whether there is a logical relationship between services provided and the benefit to real property.”<sup>12</sup> In support of a previous 1969 Supreme Court decision, the Court held that “fire protection services do, at a minimum, specifically benefit real property by providing for lower insurance premiums and enhancing the value of the property.”<sup>13</sup> The Court further stated that the assessment still must meet the second prong of the test and be properly apportioned to the benefit received. Absent the proper apportionment, the assessment becomes an unauthorized tax.

In conclusion the court held that:

Clearly, services such as general law enforcement activities, the provision of courts, and indigent health care are, like fire protection services, functions required for an organized society. However, unlike fire protection services, those services provide no direct, special benefit to real property.<sup>14</sup>

In 2005, the First District Court of Appeal held that special assessments for law enforcement services in a MSTU that benefited leaseholds were a valid special assessment.<sup>15</sup> In that case, the leaseholds subject to the special assessment were located on an island with “unique tourist and crowd control needs requiring specialized law enforcement services to protect the value of the leasehold property.” For these reasons, the court held that the “unique nature and needs of the subject leaseholds” made the special assessments valid.

Based on these court decisions and the 1998 Attorney General Opinion, it would appear that, absent a unique condition of the properties benefited, a municipality currently does not have the authority to levy assessments for general law enforcement services even if the assessment provides a special benefit to the property.

### III. Effect of Proposed Changes:

**Section 1** creates s. 166.225, F.S., to authorize the governing body of a municipality to levy a special assessment to fund the costs of providing law enforcement services if the governing body of the municipality:

- Adopts an ordinance, conditioned to take effect only upon approval by a majority vote of the electors of the municipality voting in a referendum, levying the law enforcement services special assessment which apportions the costs among parcels of real property in the municipality in reasonable proportion to the benefit each parcel receives;
- Levies at a rate of no more than \$200 per parcel; and

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<sup>12</sup> *Lake County* 695 So.2d at 669.

<sup>13</sup> *Lake County* 695 So.2d at 669 (citing *Fire Dist. No. 1 v. Jenkins*, 221 So.2d 740, 741 (Fla. 1969)).

<sup>14</sup> *Id.* at 670.

<sup>15</sup> *Quietwater Entertainment, Inc. v. Escambia County*, 890 So.2d 525 (Fla. 1st DCA 2005).

- Reduces the municipal ad valorem taxes for the first year the governing body of the municipality levies the special assessment by an amount sufficient to offset the additional revenues it expects to receive from the assessment.

The bill also provides that the methodology used to determine the benefit that a parcel of real property receives from law enforcement services may be based on the following factors:

- The square footage of structures on the parcel.
- The location of the parcel.
- The use of the parcel.
- The projected amount of time that the municipal law enforcement agency will spend serving and protecting the property, grouped by neighborhood, zone, or category of use;
- The value of the real property served or protected, including the value of each structure on the parcel and the structure's contents. However, this factor may not be used as the sole factor or as a major factor in determining the benefit of law enforcement services to a parcel of real property.
- Any other factor that reasonably may be used to determine the benefit of law enforcement services to a parcel of property.

The municipality must reduce its ad valorem millage as follows:

- In the first year the municipality levies the special assessment, it must reduce the ad valorem millage by the millage that would be required to collect revenue equal to the revenue that is forecast to be collected from the special assessment.
- When preparing the notice of proposed property taxes<sup>16</sup> in the first year of the assessment, the governing body of the municipality must calculate the rolled-back millage rate<sup>17</sup> and determine the preliminary proposed millage rate as if there were no law enforcement services assessment. The preliminary proposed millage rate must then be reduced by the amount of the law enforcement services assessment.
- After the first year of the assessment, the municipality's governing body will calculate the millage rate and rolled-back rate for the notice of proposed property taxes, based on the adopted millage rate from the previous year.
- A municipality is not required to reduce its millage, excluding millage approved by a vote of the electors and millage pledged to repay bonds:
  - By more than 75 percent; or
  - By more than 50 percent, if the resolution imposing the special assessment is approved by a two-thirds vote of the governing body of the municipality.

The bill requires the property appraiser to list the special assessment on the notice of property taxes. The bill provides authorization for the Department of Revenue to adopt rules and forms necessary to administer this section.

The authorization provided in the bill is to be construed to be general law authorizing a municipality to levy taxes under art. VII, ss. 1 and 9 of the Florida Constitution.

**Section 2** provides an effective date of July 1, 2016.

---

<sup>16</sup> Pursuant to s. 200.069, F.S.

<sup>17</sup> Pursuant to s. 200.065(5), F.S.

**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:

Individuals that reside in municipalities that levy special assessments for law enforcement services may be required to pay special assessments for the law enforcement services in proportion to the benefit they receive. However, the cost may be offset by corresponding reductions in ad valorem property taxes, depending on the circumstances of the taxpayer.

## C. Government Sector Impact:

Municipalities may levy special assessments for law enforcement services.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Revenue (DOR) notes that complications may arise because the bill provides no deadline for a municipality to pass its resolution to levy the law enforcement service assessment.<sup>18</sup> If a municipality passed a resolution during the later stages of the TRIM<sup>19</sup> process, the collection of the assessment and adjustment to the millage rate could be problematic. Instead, a specific deadline could be established<sup>20</sup> for a taxing authority to pass a non-ad valorem resolution to levy this assessment. Because the DOR would need to promulgate new forms and make programming changes before municipalities could implement the assessment and change

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<sup>18</sup> Department of Revenue, *Senate Bill 264 Legislative Bill Analysis at 4* (Sept. 30, 2015).

<sup>19</sup> TRIM means Truth in Millage

<sup>20</sup> Department of Revenue suggests April 1 for the deadline. *Id* at 5.

their millage rate, the DOR advises that implementing any law enforcement assessments in 2016 would be difficult.

Additionally, the DOR notes that no consequences are provided for a taxing authority not calculating the rolled-back rate by reducing the amount of law enforcement services.

The DOR is authorized to adopt rules and forms necessary to administer the bill.

**VIII. Statutes Affected:**

This bill substantially amends section 166.225 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 Community Affairs on February 16, 2016:**

Requires that the levy be approved by a majority vote of the electors of the municipality voting in a referendum before taking effect.

- B. **Amendments:**

None.



683836

LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 02/16/2016 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Community Affairs (Hutson) recommended the following:

**Senate Amendment**

Delete line 28

and insert:

(a) Adopts an ordinance, conditioned to take effect only upon approval by a majority vote of the electors of the municipality voting in a referendum, levying the law enforcement

By Senator Smith

31-00179-16

2016264\_\_

1                   A bill to be entitled  
2       An act relating to a special assessment for law  
3       enforcement services; creating s. 166.225, F.S.;  
4       authorizing a municipality to levy a special  
5       assessment to fund the costs of providing law  
6       enforcement services; requiring a municipality to  
7       adopt an ordinance and reduce its ad valorem millage  
8       to levy the special assessment; providing a  
9       methodology for the apportionment of the special  
10      assessment and the reduction of the ad valorem  
11      millage; requiring the property appraiser to list the  
12      special assessment on the notice of proposed property  
13      taxes; specifying exceptions to the reduction of the  
14      ad valorem millage by more than a certain percentage;  
15      authorizing the Department of Revenue to adopt rules  
16      and forms; providing for construction; providing an  
17      effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21       Section 1. Section 166.225, Florida Statutes, is created to  
22       read:

23       166.225 Law enforcement services special assessment.-

24       (1) GENERAL.-The governing body of a municipality may levy  
25       a law enforcement services special assessment to fund all or a  
26       portion of its costs of providing law enforcement services if  
27       the governing body:

28       (a) Adopts an ordinance levying the law enforcement  
29       services special assessment which apportions the cost of law



31-00179-16

2016264\_\_

30 enforcement services among the parcels of real property in the  
31 municipality in reasonable proportion to the benefit each parcel  
32 receives, but levies no more than \$200 per parcel; and

33 (b) Reduces its ad valorem millage pursuant to subsection  
34 (3).

35 (2) APPORTIONMENT METHODOLOGY.—The methodology used to  
36 determine the benefit that a parcel of real property derives  
37 from law enforcement services may be based on the following:

38 (a) The square footage of structures on the parcel.

39 (b) The location of the parcel.

40 (c) The use of the parcel.

41 (d) The projected amount of time that the municipal law  
42 enforcement agency will spend serving and protecting the parcel,  
43 with assessed parcels grouped by neighborhood, zone, or category  
44 of use. Projections may include the amount of time that will be  
45 spent responding to calls for law enforcement services and the  
46 amount of time that law enforcement officers will spend  
47 patrolling or regulating traffic on the streets that provide  
48 access to the parcel.

49 (e) The value of the real property served or protected,  
50 including the value of each structure on the parcel and the  
51 structure's contents. However, this factor may not be used as  
52 the sole factor or as a major factor in determining the benefit  
53 of law enforcement services to a parcel of real property.

54 (f) Any other factor that may reasonably be used to  
55 determine the benefit of law enforcement services to a parcel of  
56 real property.

57 (3) REDUCTION IN AD VALOREM MILLAGE.—

58 (a) In the first year that the special assessment is

31-00179-16

2016264\_\_

59 levied, the governing body of the municipality must reduce its  
60 ad valorem millage, calculated as if there were no law  
61 enforcement services assessment, by the millage that would be  
62 required to collect revenue equal to the revenue that the  
63 governing body expects to collect from the special assessment.

64 (b) When preparing the notice of proposed property taxes  
65 pursuant to s. 200.069 in the first year of the assessment, the  
66 governing body of the municipality shall calculate the rolled-  
67 back millage rate pursuant to s. 200.065(5) and shall determine  
68 the preliminary proposed millage rate as if there were no law  
69 enforcement services assessment. The governing body shall then  
70 adopt the proposed law enforcement services assessment and  
71 determine the equivalent millage rate pursuant to paragraph (a).  
72 The preliminary proposed millage rate must then be reduced by  
73 the amount of the law enforcement services assessment equivalent  
74 millage rate and the resulting millage rate reported to the  
75 property appraiser, together with the amount of the law  
76 enforcement services assessment, pursuant to the notice  
77 requirements of ss. 200.065 and 200.069. The property appraiser  
78 shall list the law enforcement services assessment on the notice  
79 of proposed property taxes below the line in the columns  
80 reserved for non-ad valorem assessments. After the first year of  
81 the assessment, the millage rate and rolled-back rate for the  
82 notice of proposed property taxes must be calculated pursuant to  
83 s. 200.065(5) and be based on the adopted millage rate from the  
84 previous year.

85 (c) Notwithstanding paragraph (a), the governing body of a  
86 municipality is not required to reduce its millage, excluding  
87 millage approved by a vote of the electors and millage pledged

31-00179-16

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88 to repay bonds, by more than 75 percent, or by more than 50  
89 percent if the ordinance levying the law enforcement services  
90 assessment is approved by a two-thirds vote of the governing  
91 body of the municipality.

92 (4) RULES AND FORMS.—The Department of Revenue may adopt  
93 rules and forms necessary to administer this section.

94 (5) CONSTRUCTION.—The levy of a law enforcement services  
95 special assessment pursuant to this section shall be construed  
96 as being authorized by general law in accordance with ss. 1 and  
97 9, Art. VII of the State Constitution.

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** January 14, 2016

---

I respectfully request that **Senate Bill #264**, relating to Special Assessment for Law Enforcement Services, be placed on the:

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

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

Senator Christopher L. Smith  
Florida Senate, District 31

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/16  
Meeting Date

264  
Bill Number (if applicable)

Topic Special Assessments Law Enforcement

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757  
Street

Phone 850-701-3621

Tallahassee FL 32302  
City State Zip

Email ahughes@flcities.com

Speaking:  For  Against  Information

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

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

02/16/2016

Meeting Date

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

264

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name DAVE ERICKS

Job Title LOBBYIST

Address 205 S. Adams Street  
Street

Phone 850-591-7550

Tallahassee FL 32301  
City State Zip

Email Dave@ericksconsultants.com

Speaking:  For  Against  Information

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

Representing CITY OF NORTH LAUDERDALE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

This form is part of the public record for this meeting

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Feb 16, 2016

Meeting Date

264

Bill Number (if applicable)

Topic Special Assessments

Amendment Barcode (if applicable)

Name Ken "cop-CHENSKI" Koczynski

Job Title Lobbyist

Address 300 East Brevard St

Phone 222-3329

Street

Talla

City

FL

State

32301

Zip

Email Ken@flpba.org

Speaking:  For  Against  Information

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

Representing Fla PBA Inc

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

This form is part of the public record for this meeting

0 001 (10/11/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/16  
Meeting Date

264  
Bill Number (if applicable)

Topic Special Assessment for Law Int.

Amendment Barcode (if applicable)

Name Greg Pound

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

Address 9166 Sunrise Dr.

Phone \_\_\_\_\_

Street

Largo

City

Fla

State

33773

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

This form is part of the public record for this meeting



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2 / 16 / 2016

*Meeting Date*

Topic \_\_\_\_\_

Bill Number 268

*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)



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

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 1100

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Local Tax Referenda

DATE: February 10, 2016

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Present | Yeatman        | CA        | <b>Fav/CS</b> |
| 2. |         |                | FT        |               |
| 3. |         |                | FP        |               |

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1100 standardizes the time at which a referendum to adopt or amend a discretionary sales surtax may be held and adjusts the voter approval threshold necessary for the adoption or amendment of such surtax in certain circumstances. A referendum for a discretionary sales surtax may only be held at a general election, a presidential preference primary election, or a primary election. The bill prohibits a local government from holding a referendum to levy a discretionary sales surtax at a special election.

If the referendum is held on the day of the general election, a majority of the voters voting must approve the discretionary sales surtax before it may go into effect. If the referendum is held during a primary or a presidential preference primary election, at least 60 percent of the voters voting must approve the discretionary sales surtax before it may go into effect.

Current law requires only a majority of the voters voting in the referendum before going into effect, and the time at which the referendum is held is usually determined by the governing body.

**II. Present Situation:**

**Local Discretionary Sales Surtaxes**

Eight different types of local discretionary sales surtaxes (also referred to as local option sales taxes) are currently authorized in law and represent potential revenue sources for county and municipal governments and school districts.<sup>1</sup> The local discretionary sales surtaxes apply to all

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<sup>1</sup> Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 215 (2016).

transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions authorized pursuant to ch. 212, F.S., and communications services as defined for the purposes of ch. 202, F.S.<sup>2</sup>

The eight types of local discretionary sales surtaxes are:

- The Charter County and Regional Transportation System Surtax in s. 212.055(1), F.S.;
- The Local Government Infrastructure Surtax in s. 212.055(2), F.S.;
- The Small County Surtax in s. 212.055(3), F.S.;
- The Indigent Care and Trauma Center Surtax in s. 212.055(4), F.S.;
- The County Public Hospital Surtax in s. 212.055(5), F.S.;
- The School Capital Outlay Surtax in s. 212.055(6), F.S.;
- The Voter-Approved Indigent Care Surtax in s. 212.055(7), F.S.; and
- The Emergency Fire Rescue Services and Facilities Surtax in s. 212.055(8), F.S.

A discretionary sales surtax applies to transactions if:<sup>3</sup>

- The selling dealer delivers taxable goods or taxable service in or into a county with a surtax.
- The event for which an admission is charged is located in a county with a surtax. Tax is due at the rate in the county where the event takes place.
- The consumer of electric power or energy is located in a county with a surtax.
- The sale of prepaid calling arrangements occurs in a county with a surtax.
- The location or delivery of tangible personal property covered by a service warranty is within a county with a surtax. The person receiving consideration for the issuance of a service warranty from the agreement holder must collect surtax at the rate imposed by that county.
- The commercial real property that is leased or rented, or upon which a license for use is granted, is in a county with a surtax.
- The rental of living or sleeping accommodations (transient rentals) occurs in a county with a surtax.
- A registered dealer owing use tax on purchases or leases is located in a county with a surtax.

The 49 counties and 15 school districts levying one or more discretionary sales surtaxes are projected to realize \$2.15 billion in revenue in fiscal year 2015-16.<sup>4</sup> If all counties and school districts levied discretionary sales surtaxes at the maximum possible rate, they would be projected to raise \$10.87 billion in revenue in fiscal year 2015-16.<sup>5</sup>

## **Method and Time for Approval by the Electorate for Local Discretionary Sales Surtaxes**

### ***Charter County and Regional Transportation System Surtax***

Each charter county that has adopted a charter, each county the government of which is consolidated with that of one or more municipalities, and each county that is within or under an interlocal agreement with a regional transportation or transit authority created under ch. 343 or

<sup>2</sup> *Id.*

<sup>3</sup> Florida Department of Revenue, *Florida's Discretionary Sales Surtax*, 2, [http://dor.myflorida.com/Forms\\_library/current/gt800019.pdf](http://dor.myflorida.com/Forms_library/current/gt800019.pdf) (last visited Feb. 10, 2016).

<sup>4</sup> Office of Economic and Demographic Research, *2015 Local Government Financial Information Handbook*, p. 152.

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

ch. 349, F.S., may levy a discretionary sales surtax, subject to approval by a majority vote of the county's electorate or by a charter amendment approved by a majority vote of the county's electorate.<sup>6</sup> The vote is held "...at a time to be set at the discretion of the governing body."<sup>7</sup>

### ***Local Government Infrastructure Surtax***

The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent.<sup>8</sup> The levy of the surtax is pursuant to ordinance enacted by a majority vote of the county's governing body and approved by a majority of the electors of the county voting in a referendum on the surtax.<sup>9</sup> If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.<sup>10</sup>

### ***Small County Surtax***

If surtax revenues are being used for operating purposes, the surtax may be enacted by an extraordinary vote of the members of the county governing authority.<sup>11</sup> If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax must be approved by a majority of the electors of the county voting in a referendum on the surtax.<sup>12</sup>

### ***Indigent Care and Trauma Center Surtax***

The governing body in each county the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents and is not authorized to levy the county public hospital surtax, may levy, pursuant to an ordinance either approved by an extraordinary vote of the governing body or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.<sup>13</sup>

The governing body in each county of the government of which is not consolidated with that of one or more municipalities and which has a population of less than 800,000 residents, may levy, by ordinance subject to approval by a majority of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.25 percent.<sup>14</sup>

### ***County Public Hospital Surtax***

Any county as defined in s. 125.011(1), F.S., may levy the surtax authorized pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a

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<sup>6</sup> Section 212.055(1)(a), F.S.

<sup>7</sup> Section 212.055(1)(c), F.S.

<sup>8</sup> Section 212.055(2)(a)1., F.S.

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

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

<sup>11</sup> Section 212.055(3)(a), F.S.

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

<sup>13</sup> Section 212.055(4)(a)1., F.S.

<sup>14</sup> Section 212.055(4)(b), F.S.

referendum.<sup>15</sup> The proposal to adopt the surtax shall be placed on the ballot in accordance with law “at a time to be set at the discretion of the governing body.”<sup>16</sup>

### ***School Capital Outlay Surtax***

The school board in each county may levy this discretionary sales surtax, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting a referendum.<sup>17</sup>

### ***Voter-Approved Indigent Care Surtax***

The governing body in each county that has a population of fewer than 800,000 residents may levy an indigent care surtax pursuant to an ordinance conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum.<sup>18</sup> The surtax may be levied at a rate not to exceed 0.5 percent, except that if a publicly supported medical school is located in the county the rate shall not exceed 1 percent.<sup>19</sup>

The governing body of any county that has a population of fewer than 50,000 residents may levy an indigent care surtax pursuant to an ordinance conditioned to take effect only upon approval by a majority vote of the electors voting in a referendum.<sup>20</sup> The surtax may be levied at a rate not to exceed 1 percent.<sup>21</sup>

### ***Emergency Fire Rescue Services and Facilities Surtax***

Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance.<sup>22</sup> The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose.<sup>23</sup> The referendum shall be placed on the ballot of a regularly scheduled election.<sup>24</sup>

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

**Section 1** amends s. 212.055, F.S., to standardize the time at which a referendum to adopt or amend a discretionary sales surtax may be held and to adjust the voter approval threshold necessary for the adoption or amendment of such surtax in certain circumstances. A referendum for a discretionary sales surtax may only be held at a general election as defined by s. 97.021, F.S., a presidential preference primary election as defined in s. 103.101, F.S., or a primary election as defined in s. 97.021, F.S. The bill prohibits a local government from holding a referendum to levy a discretionary sales surtax at a special election.

<sup>15</sup> Section 212.055(5), F.S.

<sup>16</sup> Section 212.055(5)(b), F.S.

<sup>17</sup> Section 212.055(6)(a), F.S.

<sup>18</sup> Section 212.055(7)(a)1., F.S.

<sup>19</sup> *Id.*

<sup>20</sup> Section 212.055(7)(a)2., F.S.

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

<sup>22</sup> Section 212.055(8)(b), F.S.

<sup>23</sup> *Id.*

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

If the referendum is held on the day of the general election, a majority of the voters voting must approve the discretionary sales surtax before it may go into effect. If the referendum is held during a primary or presidential preference primary election, at least 60 percent of the voters voting must approve the discretionary sales surtax before it may go into effect.

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

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

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

Subsection 18(b) of article VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate. The term “authority” applies to increasing the required percentage of voter approval to adopt a discretionary sales surtax.<sup>25</sup> Although the bill increases the required percentage of voter approval in certain circumstances, the local government may avoid the increased threshold by holding its referendum at a general election. As such, the two-thirds vote may not be required.

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

None.

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

None.

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

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

None.

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

None.

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

None.

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

None.

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<sup>25</sup> Joint House and Senate Local Mandates Guidelines, March 21, 1991.

**VII. Related Issues:**

There may be an inconsistency between s. 212.055(1)(a), F.S., and the other changes made by the bill to s. 212.055, F.S. Section 212.055(1)(a), F.S., requires a majority of the county electorate to approve the charter county and regional transportation system surtax. For each of the other seven discretionary sales surtaxes, the phrase “a majority of” was removed, and a reference to subsection (9) was inserted. A similar change may be needed for s. 212.055(1)(a), F.S.

**VIII. Statutes Affected:**

This bill substantially amends section 212.055 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 Community Affairs on February 16, 2016:**

- Standardizes the time at which a referendum to adopt or amend a discretionary sales surtax may be held and adjusts the voter approval threshold necessary for the adoption or amendment of such surtax in certain circumstances.
- Provides that a referendum for a discretionary sales surtax may only be held at a general election, a presidential preference primary election, or a primary election.
- Prohibits a local government from holding a referendum to levy a discretionary sales surtax at a special election.
- Provides that a majority of the voters voting must approve the discretionary sales surtax before it may go into effect if the referendum is held on the day of the general election.
- Provides that at least 60 percent of the voters voting must approve the discretionary sales surtax before it may go into effect if the referendum is held during a primary or presidential preference primary election.
- Changes the effective date from July 1, 2016, to July 1, 2017.

**B. Amendments:**

None.





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LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 02/16/2016 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Community Affairs (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (c) of subsection (1), paragraph (a) of subsection (2), paragraph (a) of subsection (3), subsections (4) and (5), paragraph (a) of subsection (6), paragraph (a) of subsection (7), and paragraph (b) of subsection (8) of section 212.055, Florida Statutes, are amended, and subsection (9) is added to that section, to read:



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11           212.055 Discretionary sales surtaxes; legislative intent;  
12 authorization and use of proceeds.—It is the legislative intent  
13 that any authorization for imposition of a discretionary sales  
14 surtax shall be published in the Florida Statutes as a  
15 subsection of this section, irrespective of the duration of the  
16 levy. Each enactment shall specify the types of counties  
17 authorized to levy; the rate or rates which may be imposed; the  
18 maximum length of time the surtax may be imposed, if any; the  
19 procedure which must be followed to secure voter approval, if  
20 required; the purpose for which the proceeds may be expended;  
21 and such other requirements as the Legislature may provide.  
22 Taxable transactions and administrative procedures shall be as  
23 provided in s. 212.054.

24           (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM  
25 SURTAX.—

26           (c) The proposal to adopt a discretionary sales surtax as  
27 provided in this subsection and to create a trust fund within  
28 the county accounts shall be placed on the ballot in accordance  
29 with law and must be approved in a referendum as set forth in  
30 subsection (9) at a time to be set at the discretion of the  
31 governing body.

32           (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

33           (a)1. The governing authority in each county may levy a  
34 discretionary sales surtax of 0.5 percent or 1 percent. The levy  
35 of the surtax shall be pursuant to ordinance enacted by a  
36 majority of the members of the county governing authority and  
37 approved by a majority of the electors of the county, as set  
38 forth in subsection (9), voting in a referendum on the surtax.  
39 If the governing bodies of the municipalities representing a



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40 majority of the county's population adopt uniform resolutions  
41 establishing the rate of the surtax and calling for a referendum  
42 on the surtax, the levy of the surtax shall be placed on the  
43 ballot and shall take effect if approved by ~~a majority of the~~  
44 electors of the county, as set forth in subsection (9), voting  
45 in the referendum on the surtax.

46 2. If the surtax was levied pursuant to a referendum held  
47 before July 1, 1993, the surtax may not be levied beyond the  
48 time established in the ordinance, or, if the ordinance did not  
49 limit the period of the levy, the surtax may not be levied for  
50 more than 15 years. The levy of such surtax may be extended only  
51 by approval of ~~a majority of the~~ electors of the county, as set  
52 forth in subsection (9), voting in a referendum on the surtax.

53 (3) SMALL COUNTY SURTAX.—

54 (a) The governing authority in each county that has a  
55 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a  
56 discretionary sales surtax of 0.5 percent or 1 percent. The levy  
57 of the surtax shall be pursuant to ordinance enacted by an  
58 extraordinary vote of the members of the county governing  
59 authority if the surtax revenues are expended for operating  
60 purposes. If the surtax revenues are expended for the purpose of  
61 servicing bond indebtedness, the surtax shall be approved by ~~a~~  
62 ~~majority of the~~ electors of the county, as set forth in  
63 subsection (9), voting in a referendum on the surtax.

64 (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

65 (a)1. The governing body in each county the government of  
66 which is not consolidated with that of one or more  
67 municipalities, which has a population of at least 800,000  
68 residents and is not authorized to levy a surtax under



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69 subsection (5), may levy, pursuant to an ordinance either  
70 approved by an extraordinary vote of the governing body or  
71 conditioned to take effect only upon approval by a ~~majority vote~~  
72 of the electors of the county, as set forth in subsection (9),  
73 voting in a referendum, a discretionary sales surtax at a rate  
74 that may not exceed 0.5 percent.

75 2. If the ordinance is conditioned on a referendum, a  
76 statement that includes a brief and general description of the  
77 purposes to be funded by the surtax and that conforms to the  
78 requirements of s. 101.161 shall be placed on the ballot by the  
79 governing body of the county. The following questions shall be  
80 placed on the ballot:

81 FOR THE. . . .CENTS TAX

82 AGAINST THE. . . .CENTS TAX

83 3. The ordinance adopted by the governing body providing  
84 for the imposition of the surtax shall set forth a plan for  
85 providing health care services to qualified residents, as  
86 defined in subparagraph 4. Such plan and subsequent amendments  
87 to it shall fund a broad range of health care services for both  
88 indigent persons and the medically poor, including, but not  
89 limited to, primary care and preventive care as well as hospital  
90 care. The plan must also address the services to be provided by  
91 the Level I trauma center. It shall emphasize a continuity of  
92 care in the most cost-effective setting, taking into  
93 consideration both a high quality of care and geographic access.  
94 Where consistent with these objectives, it shall include,  
95 without limitation, services rendered by physicians, clinics,  
96 community hospitals, mental health centers, and alternative  
97 delivery sites, as well as at least one regional referral



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98 hospital where appropriate. It shall provide that agreements  
99 negotiated between the county and providers, including hospitals  
100 with a Level I trauma center, will include reimbursement  
101 methodologies that take into account the cost of services  
102 rendered to eligible patients, recognize hospitals that render a  
103 disproportionate share of indigent care, provide other  
104 incentives to promote the delivery of charity care, promote the  
105 advancement of technology in medical services, recognize the  
106 level of responsiveness to medical needs in trauma cases, and  
107 require cost containment including, but not limited to, case  
108 management. It must also provide that any hospitals that are  
109 owned and operated by government entities on May 21, 1991, must,  
110 as a condition of receiving funds under this subsection, afford  
111 public access equal to that provided under s. 286.011 as to  
112 meetings of the governing board, the subject of which is  
113 budgeting resources for the rendition of charity care as that  
114 term is defined in the Florida Hospital Uniform Reporting System  
115 (FHURS) manual referenced in s. 408.07. The plan shall also  
116 include innovative health care programs that provide cost-  
117 effective alternatives to traditional methods of service  
118 delivery and funding.

119 4. For the purpose of this paragraph, the term "qualified  
120 resident" means residents of the authorizing county who are:

121 a. Qualified as indigent persons as certified by the  
122 authorizing county;

123 b. Certified by the authorizing county as meeting the  
124 definition of the medically poor, defined as persons having  
125 insufficient income, resources, and assets to provide the needed  
126 medical care without using resources required to meet basic



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127 needs for shelter, food, clothing, and personal expenses; or not  
128 being eligible for any other state or federal program, or having  
129 medical needs that are not covered by any such program; or  
130 having insufficient third-party insurance coverage. In all  
131 cases, the authorizing county is intended to serve as the payor  
132 of last resort; or

133 c. Participating in innovative, cost-effective programs  
134 approved by the authorizing county.

135 5. Moneys collected pursuant to this paragraph remain the  
136 property of the state and shall be distributed by the Department  
137 of Revenue on a regular and periodic basis to the clerk of the  
138 circuit court as ex officio custodian of the funds of the  
139 authorizing county. The clerk of the circuit court shall:

140 a. Maintain the moneys in an indigent health care trust  
141 fund;

142 b. Invest any funds held on deposit in the trust fund  
143 pursuant to general law;

144 c. Disburse the funds, including any interest earned, to  
145 any provider of health care services, as provided in  
146 subparagraphs 3. and 4., upon directive from the authorizing  
147 county. However, if a county has a population of at least  
148 800,000 residents and has levied the surtax authorized in this  
149 paragraph, notwithstanding any directive from the authorizing  
150 county, on October 1 of each calendar year, the clerk of the  
151 court shall issue a check in the amount of \$6.5 million to a  
152 hospital in its jurisdiction that has a Level I trauma center or  
153 shall issue a check in the amount of \$3.5 million to a hospital  
154 in its jurisdiction that has a Level I trauma center if that  
155 county enacts and implements a hospital lien law in accordance



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156 with chapter 98-499, Laws of Florida. The issuance of the checks  
157 on October 1 of each year is provided in recognition of the  
158 Level I trauma center status and shall be in addition to the  
159 base contract amount received during fiscal year 1999-2000 and  
160 any additional amount negotiated to the base contract. If the  
161 hospital receiving funds for its Level I trauma center status  
162 requests such funds to be used to generate federal matching  
163 funds under Medicaid, the clerk of the court shall instead issue  
164 a check to the Agency for Health Care Administration to  
165 accomplish that purpose to the extent that it is allowed through  
166 the General Appropriations Act; and

167         d. Prepare on a biennial basis an audit of the trust fund  
168 specified in sub-subparagraph a. Commencing February 1, 2004,  
169 such audit shall be delivered to the governing body and to the  
170 chair of the legislative delegation of each authorizing county.

171         6. Notwithstanding any other provision of this section, a  
172 county shall not levy local option sales surtaxes authorized in  
173 this paragraph and subsections (2) and (3) in excess of a  
174 combined rate of 1 percent.

175         (b) Notwithstanding any other provision of this section,  
176 the governing body in each county the government of which is not  
177 consolidated with that of one or more municipalities and which  
178 has a population of fewer ~~less~~ than 800,000 residents, may levy,  
179 by ordinance subject to approval by ~~a majority of~~ the electors  
180 of the county, as set forth in subsection (9), voting in a  
181 referendum, a discretionary sales surtax at a rate that may not  
182 exceed 0.25 percent for the sole purpose of funding trauma  
183 services provided by a trauma center licensed pursuant to  
184 chapter 395.



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185           1. A statement that includes a brief and general  
186 description of the purposes to be funded by the surtax and that  
187 conforms to the requirements of s. 101.161 shall be placed on  
188 the ballot by the governing body of the county. The following  
189 shall be placed on the ballot:

190                           FOR THE. . . .CENTS TAX

191                           AGAINST THE. . . .CENTS TAX

192           2. The ordinance adopted by the governing body of the  
193 county providing for the imposition of the surtax shall set  
194 forth a plan for providing trauma services to trauma victims  
195 presenting in the trauma service area in which such county is  
196 located.

197           3. Moneys collected pursuant to this paragraph remain the  
198 property of the state and shall be distributed by the Department  
199 of Revenue on a regular and periodic basis to the clerk of the  
200 circuit court as ex officio custodian of the funds of the  
201 authorizing county. The clerk of the circuit court shall:

202                   a. Maintain the moneys in a trauma services trust fund.

203                   b. Invest any funds held on deposit in the trust fund  
204 pursuant to general law.

205                   c. Disburse the funds, including any interest earned on  
206 such funds, to the trauma center in its trauma service area, as  
207 provided in the plan set forth pursuant to subparagraph 2., upon  
208 directive from the authorizing county. If the trauma center  
209 receiving funds requests such funds be used to generate federal  
210 matching funds under Medicaid, the custodian of the funds shall  
211 instead issue a check to the Agency for Health Care  
212 Administration to accomplish that purpose to the extent that the  
213 agency is allowed through the General Appropriations Act.





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214           d. Prepare on a biennial basis an audit of the trauma  
215 services trust fund specified in sub-subparagraph a., to be  
216 delivered to the authorizing county.

217           4. A discretionary sales surtax imposed pursuant to this  
218 paragraph shall expire 4 years after the effective date of the  
219 surtax, unless reenacted by ordinance subject to approval by a  
220 ~~majority of the electors of the county, as set forth in~~  
221 subsection (9), voting in a subsequent referendum.

222           5. Notwithstanding any other provision of this section, a  
223 county shall not levy local option sales surtaxes authorized in  
224 this paragraph and subsections (2) and (3) in excess of a  
225 combined rate of 1 percent.

226           (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in  
227 s. 125.011(1) may levy the surtax authorized in this subsection  
228 pursuant to an ordinance either approved by extraordinary vote  
229 of the county commission or conditioned to take effect only upon  
230 approval by a ~~majority vote of the electors of the county, as~~  
231 set forth in subsection (9), voting in a referendum. In a county  
232 as defined in s. 125.011(1), for the purposes of this  
233 subsection, "county public general hospital" means a general  
234 hospital as defined in s. 395.002 which is owned, operated,  
235 maintained, or governed by the county or its agency, authority,  
236 or public health trust.

237           (a) The rate shall be 0.5 percent.

238           (b) If the ordinance is conditioned on a referendum, the  
239 proposal to adopt the county public hospital surtax shall be  
240 placed on the ballot in accordance with subsection (9) ~~law at a~~  
241 ~~time to be set at the discretion of the governing body.~~ The  
242 referendum question on the ballot shall include a brief general



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243 description of the health care services to be funded by the  
244 surtax.

245 (c) Proceeds from the surtax shall be:

246 1. Deposited by the county in a special fund, set aside  
247 from other county funds, to be used only for the operation,  
248 maintenance, and administration of the county public general  
249 hospital; and

250 2. Remitted promptly by the county to the agency,  
251 authority, or public health trust created by law which  
252 administers or operates the county public general hospital.

253 (d) Except as provided in subparagraphs 1. and 2., the  
254 county must continue to contribute each year an amount equal to  
255 at least 80 percent of that percentage of the total county  
256 budget appropriated for the operation, administration, and  
257 maintenance of the county public general hospital from the  
258 county's general revenues in the fiscal year of the county  
259 ending September 30, 1991:

260 1. Twenty-five percent of such amount must be remitted to a  
261 governing board, agency, or authority that is wholly independent  
262 from the public health trust, agency, or authority responsible  
263 for the county public general hospital, to be used solely for  
264 the purpose of funding the plan for indigent health care  
265 services provided for in paragraph (e);

266 2. However, in the first year of the plan, a total of \$10  
267 million shall be remitted to such governing board, agency, or  
268 authority, to be used solely for the purpose of funding the plan  
269 for indigent health care services provided for in paragraph (e),  
270 and in the second year of the plan, a total of \$15 million shall  
271 be so remitted and used.



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272 (e) A governing board, agency, or authority shall be  
273 chartered by the county commission upon this act becoming law.  
274 The governing board, agency, or authority shall adopt and  
275 implement a health care plan for indigent health care services.  
276 The governing board, agency, or authority shall consist of no  
277 more than seven and no fewer than five members appointed by the  
278 county commission. The members of the governing board, agency,  
279 or authority shall be at least 18 years of age and residents of  
280 the county. No member may be employed by or affiliated with a  
281 health care provider or the public health trust, agency, or  
282 authority responsible for the county public general hospital.  
283 The following community organizations shall each appoint a  
284 representative to a nominating committee: the South Florida  
285 Hospital and Healthcare Association, the Miami-Dade County  
286 Public Health Trust, the Dade County Medical Association, the  
287 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade  
288 County. This committee shall nominate between 10 and 14 county  
289 citizens for the governing board, agency, or authority. The  
290 slate shall be presented to the county commission and the county  
291 commission shall confirm the top five to seven nominees,  
292 depending on the size of the governing board. Until such time as  
293 the governing board, agency, or authority is created, the funds  
294 provided for in subparagraph (d)2. shall be placed in a  
295 restricted account set aside from other county funds and not  
296 disbursed by the county for any other purpose.

297 1. The plan shall divide the county into a minimum of four  
298 and maximum of six service areas, with no more than one  
299 participant hospital per service area. The county public general  
300 hospital shall be designated as the provider for one of the



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301 service areas. Services shall be provided through participants'  
302 primary acute care facilities.

303 2. The plan and subsequent amendments to it shall fund a  
304 defined range of health care services for both indigent persons  
305 and the medically poor, including primary care, preventive care,  
306 hospital emergency room care, and hospital care necessary to  
307 stabilize the patient. For the purposes of this section,  
308 "stabilization" means stabilization as defined in s.

309 397.311(41). Where consistent with these objectives, the plan  
310 may include services rendered by physicians, clinics, community  
311 hospitals, and alternative delivery sites, as well as at least  
312 one regional referral hospital per service area. The plan shall  
313 provide that agreements negotiated between the governing board,  
314 agency, or authority and providers shall recognize hospitals  
315 that render a disproportionate share of indigent care, provide  
316 other incentives to promote the delivery of charity care to draw  
317 down federal funds where appropriate, and require cost  
318 containment, including, but not limited to, case management.

319 From the funds specified in subparagraphs (d)1. and 2. for  
320 indigent health care services, service providers shall receive  
321 reimbursement at a Medicaid rate to be determined by the  
322 governing board, agency, or authority created pursuant to this  
323 paragraph for the initial emergency room visit, and a per-member  
324 per-month fee or capitation for those members enrolled in their  
325 service area, as compensation for the services rendered  
326 following the initial emergency visit. Except for provisions of  
327 emergency services, upon determination of eligibility,  
328 enrollment shall be deemed to have occurred at the time services  
329 were rendered. The provisions for specific reimbursement of



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330 emergency services shall be repealed on July 1, 2001, unless  
331 otherwise reenacted by the Legislature. The capitation amount or  
332 rate shall be determined prior to program implementation by an  
333 independent actuarial consultant. In no event shall such  
334 reimbursement rates exceed the Medicaid rate. The plan must also  
335 provide that any hospitals owned and operated by government  
336 entities on or after the effective date of this act must, as a  
337 condition of receiving funds under this subsection, afford  
338 public access equal to that provided under s. 286.011 as to any  
339 meeting of the governing board, agency, or authority the subject  
340 of which is budgeting resources for the retention of charity  
341 care, as that term is defined in the rules of the Agency for  
342 Health Care Administration. The plan shall also include  
343 innovative health care programs that provide cost-effective  
344 alternatives to traditional methods of service and delivery  
345 funding.

346 3. The plan's benefits shall be made available to all  
347 county residents currently eligible to receive health care  
348 services as indigents or medically poor as defined in paragraph  
349 (4) (d).

350 4. Eligible residents who participate in the health care  
351 plan shall receive coverage for a period of 12 months or the  
352 period extending from the time of enrollment to the end of the  
353 current fiscal year, per enrollment period, whichever is less.

354 5. At the end of each fiscal year, the governing board,  
355 agency, or authority shall prepare an audit that reviews the  
356 budget of the plan, delivery of services, and quality of  
357 services, and makes recommendations to increase the plan's  
358 efficiency. The audit shall take into account participant



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359 hospital satisfaction with the plan and assess the amount of  
360 poststabilization patient transfers requested, and accepted or  
361 denied, by the county public general hospital.

362 (f) Notwithstanding any other provision of this section, a  
363 county may not levy local option sales surtaxes authorized in  
364 this subsection and subsections (2) and (3) in excess of a  
365 combined rate of 1 percent.

366 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

367 (a) The school board in each county may levy, pursuant to  
368 resolution conditioned to take effect only upon approval by a  
369 ~~majority vote of~~ the electors of the county, as set forth in  
370 subsection (9), voting in a referendum, a discretionary sales  
371 surtax at a rate that may not exceed 0.5 percent.

372 (7) VOTER-APPROVED INDIGENT CARE SURTAX.—

373 (a)1. The governing body in each county that has a  
374 population of fewer than 800,000 residents may levy an indigent  
375 care surtax pursuant to an ordinance conditioned to take effect  
376 only upon approval by ~~a majority vote of~~ the electors of the  
377 county, as set forth in subsection (9), voting in a referendum.  
378 The surtax may be levied at a rate not to exceed 0.5 percent,  
379 except that if a publicly supported medical school is located in  
380 the county, the rate shall not exceed 1 percent.

381 2. Notwithstanding subparagraph 1., the governing body of  
382 any county that has a population of fewer than 50,000 residents  
383 may levy an indigent care surtax pursuant to an ordinance  
384 conditioned to take effect only upon approval by ~~a majority vote~~  
385 ~~of~~ the electors of the county, as set forth in subsection (9),  
386 voting in a referendum. The surtax may be levied at a rate not  
387 to exceed 1 percent.



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388 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.-

389 (b) Upon the adoption of the ordinance, the levy of the  
390 surtax must be placed on the ballot by the governing authority  
391 of the county enacting the ordinance. The ordinance will take  
392 effect if approved by ~~a majority of~~ the electors of the county,  
393 as set forth in subsection (9), voting in a referendum held for  
394 such purpose. The referendum shall be placed on the ballot of a  
395 regularly scheduled election. The ballot for the referendum must  
396 conform to the requirements of s. 101.161.

397 (9) DATES FOR REFERENDA; VOTER APPROVAL THRESHOLDS.-A  
398 referendum to adopt or amend a local government discretionary  
399 sales surtax under this section may not be held during a special  
400 election. A referendum under this section held at a presidential  
401 preference primary election as provided in s. 103.101 or at a  
402 primary election as defined by s. 97.021 requires the approval  
403 of at least 60 percent of the voters voting on the ballot  
404 question for passage. A referendum under this section held at a  
405 general election as defined by s. 97.021 requires the approval  
406 of a majority of the voters voting on the ballot question for  
407 passage.

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

409  
410 ===== T I T L E A M E N D M E N T =====

411 And the title is amended as follows:

412 Delete everything before the enacting clause  
413 and insert:

414 A bill to be entitled  
415 An act relating to local tax referenda; amending s.  
416 212.055, F.S.; specifying the times when local



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417 government discretionary sales surtax referenda may be  
418 held; requiring the approval of a specified percentage  
419 of electors voting in a referendum election to adopt  
420 or amend a local government discretionary sales  
421 surtax; providing an effective date.



By Senator Brandes

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1                   A bill to be entitled  
2           An act relating to local tax referenda; amending s.  
3           212.055, F.S.; requiring local government  
4           discretionary sales surtax referenda to be held on the  
5           day of a general election; requiring the approval of a  
6           specified percentage of the electors voting in a  
7           referendum election to adopt or amend a local  
8           government discretionary sales surtax; prohibiting use  
9           of state or county funds and use of county or school  
10          district materials or publications to promote or  
11          advertise proposed surtax referenda for certain  
12          discretionary sales surtaxes; providing an exception;  
13          defining the term "day of a general election";  
14          providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Paragraph (c) of subsection (1), paragraph (a)  
19           of subsection (2), paragraph (a) of subsection (3), paragraphs  
20           (a) and (b) of subsection (4), subsection (5), paragraph (a) of  
21           subsection (6), paragraph (a) of subsection (7), and paragraph  
22           (b) of subsection (8) of section 212.055, Florida Statutes, are  
23           amended, and subsections (9) and (10) are added to that section,  
24           to read:

25           212.055 Discretionary sales surtaxes; legislative intent;  
26           authorization and use of proceeds.—It is the legislative intent  
27           that any authorization for imposition of a discretionary sales  
28           surtax shall be published in the Florida Statutes as a  
29           subsection of this section, irrespective of the duration of the  
30           levy. Each enactment shall specify the types of counties  
31           authorized to levy; the rate or rates which may be imposed; the  
32           maximum length of time the surtax may be imposed, if any; the

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33 procedure which must be followed to secure voter approval, if  
34 required; the purpose for which the proceeds may be expended;  
35 and such other requirements as the Legislature may provide.  
36 Taxable transactions and administrative procedures shall be as  
37 provided in s. 212.054.

38 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM  
39 SURTAX.—

40 (c) The proposal to adopt a discretionary sales surtax as  
41 provided in this subsection and to create a trust fund within  
42 the county accounts shall be placed on the ballot in accordance  
43 with law and must be approved by at least 60 percent of the  
44 electors voting in a referendum held on the day of a general  
45 election ~~at a time to be set at the discretion of the governing~~  
46 ~~body.~~

47 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

48 (a)1. The governing authority in each county may levy a  
49 discretionary sales surtax of 0.5 percent or 1 percent. The levy  
50 of the surtax shall be pursuant to ordinance enacted by a  
51 majority of the members of the county governing authority and  
52 approved by at least 60 percent ~~a majority~~ of the electors of  
53 the county voting in a referendum on the surtax held on the day  
54 of a general election. If the governing bodies of the  
55 municipalities representing a majority of the county's  
56 population adopt uniform resolutions establishing the rate of  
57 the surtax and calling for a referendum on the surtax, the levy  
58 of the surtax shall be placed on the ballot and shall take  
59 effect if approved by at least 60 percent ~~a majority~~ of the  
60 electors of the county voting in the referendum on the surtax  
61 held on the day of a general election.

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62           2. If the surtax was levied pursuant to a referendum held  
63 before July 1, 1993, the surtax may not be levied beyond the  
64 time established in the ordinance, or, if the ordinance did not  
65 limit the period of the levy, the surtax may not be levied for  
66 more than 15 years. The levy of such surtax may be extended only  
67 by approval of at least 60 percent ~~a majority~~ of the electors of  
68 the county voting in a referendum on the surtax held on the day  
69 of a general election.

70           (3) SMALL COUNTY SURTAX.—

71           (a) The governing authority in each county that has a  
72 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a  
73 discretionary sales surtax of 0.5 percent or 1 percent. The levy  
74 of the surtax shall be pursuant to ordinance enacted by an  
75 extraordinary vote of the members of the county governing  
76 authority if the surtax revenues are expended for operating  
77 purposes. If the surtax revenues are expended for the purpose of  
78 servicing bond indebtedness, the surtax shall be approved by at  
79 least 60 percent ~~a majority~~ of the electors of the county voting  
80 in a referendum on the surtax held on the day of a general  
81 election.

82           (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

83           (a)1. The governing body in each county the government of  
84 which is not consolidated with that of one or more  
85 municipalities, which has a population of at least 800,000  
86 residents and is not authorized to levy a surtax under  
87 subsection (5), may levy, pursuant to an ordinance either  
88 approved by an extraordinary vote of the governing body or  
89 conditioned to take effect only upon approval by at least 60  
90 percent ~~a majority vote~~ of the electors of the county voting in

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91 a referendum, a discretionary sales surtax at a rate that may  
 92 not exceed 0.5 percent.

93 2. If the ordinance is conditioned on a referendum, a  
 94 statement that includes a brief and general description of the  
 95 purposes to be funded by the surtax and that conforms to the  
 96 requirements of s. 101.161 shall be placed on the ballot by the  
 97 governing body of the county. The referendum must be held on the  
 98 day of a general election. The following questions shall be  
 99 placed on the ballot:

100  
 101 FOR THE. . . .CENTS TAX  
 102 AGAINST THE. . . .CENTS TAX  
 103

104 3. The ordinance adopted by the governing body providing  
 105 for the imposition of the surtax shall set forth a plan for  
 106 providing health care services to qualified residents, as  
 107 defined in subparagraph 4. Such plan and subsequent amendments  
 108 to it shall fund a broad range of health care services for both  
 109 indigent persons and the medically poor, including, but not  
 110 limited to, primary care and preventive care as well as hospital  
 111 care. The plan must also address the services to be provided by  
 112 the Level I trauma center. It shall emphasize a continuity of  
 113 care in the most cost-effective setting, taking into  
 114 consideration both a high quality of care and geographic access.  
 115 Where consistent with these objectives, it shall include,  
 116 without limitation, services rendered by physicians, clinics,  
 117 community hospitals, mental health centers, and alternative  
 118 delivery sites, as well as at least one regional referral  
 119 hospital where appropriate. It shall provide that agreements

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120 negotiated between the county and providers, including hospitals  
121 with a Level I trauma center, will include reimbursement  
122 methodologies that take into account the cost of services  
123 rendered to eligible patients, recognize hospitals that render a  
124 disproportionate share of indigent care, provide other  
125 incentives to promote the delivery of charity care, promote the  
126 advancement of technology in medical services, recognize the  
127 level of responsiveness to medical needs in trauma cases, and  
128 require cost containment including, but not limited to, case  
129 management. It must also provide that any hospitals that are  
130 owned and operated by government entities on May 21, 1991, must,  
131 as a condition of receiving funds under this subsection, afford  
132 public access equal to that provided under s. 286.011 as to  
133 meetings of the governing board, the subject of which is  
134 budgeting resources for the rendition of charity care as that  
135 term is defined in the Florida Hospital Uniform Reporting System  
136 (FHURS) manual referenced in s. 408.07. The plan shall also  
137 include innovative health care programs that provide cost-  
138 effective alternatives to traditional methods of service  
139 delivery and funding.

140 4. For the purpose of this paragraph, the term "qualified  
141 resident" means residents of the authorizing county who are:

142 a. Qualified as indigent persons as certified by the  
143 authorizing county;

144 b. Certified by the authorizing county as meeting the  
145 definition of the medically poor, defined as persons having  
146 insufficient income, resources, and assets to provide the needed  
147 medical care without using resources required to meet basic  
148 needs for shelter, food, clothing, and personal expenses; or not

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149 being eligible for any other state or federal program, or having  
150 medical needs that are not covered by any such program; or  
151 having insufficient third-party insurance coverage. In all  
152 cases, the authorizing county is intended to serve as the payor  
153 of last resort; or

154 c. Participating in innovative, cost-effective programs  
155 approved by the authorizing county.

156 5. Moneys collected pursuant to this paragraph remain the  
157 property of the state and shall be distributed by the Department  
158 of Revenue on a regular and periodic basis to the clerk of the  
159 circuit court as ex officio custodian of the funds of the  
160 authorizing county. The clerk of the circuit court shall:

161 a. Maintain the moneys in an indigent health care trust  
162 fund;

163 b. Invest any funds held on deposit in the trust fund  
164 pursuant to general law;

165 c. Disburse the funds, including any interest earned, to  
166 any provider of health care services, as provided in  
167 subparagraphs 3. and 4., upon directive from the authorizing  
168 county. However, if a county has a population of at least  
169 800,000 residents and has levied the surtax authorized in this  
170 paragraph, notwithstanding any directive from the authorizing  
171 county, on October 1 of each calendar year, the clerk of the  
172 court shall issue a check in the amount of \$6.5 million to a  
173 hospital in its jurisdiction that has a Level I trauma center or  
174 shall issue a check in the amount of \$3.5 million to a hospital  
175 in its jurisdiction that has a Level I trauma center if that  
176 county enacts and implements a hospital lien law in accordance  
177 with chapter 98-499, Laws of Florida. The issuance of the checks

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178 on October 1 of each year is provided in recognition of the  
179 Level I trauma center status and shall be in addition to the  
180 base contract amount received during fiscal year 1999-2000 and  
181 any additional amount negotiated to the base contract. If the  
182 hospital receiving funds for its Level I trauma center status  
183 requests such funds to be used to generate federal matching  
184 funds under Medicaid, the clerk of the court shall instead issue  
185 a check to the Agency for Health Care Administration to  
186 accomplish that purpose to the extent that it is allowed through  
187 the General Appropriations Act; and

188 d. Prepare on a biennial basis an audit of the trust fund  
189 specified in sub-subparagraph a. Commencing February 1, 2004,  
190 such audit shall be delivered to the governing body and to the  
191 chair of the legislative delegation of each authorizing county.

192 6. Notwithstanding any other provision of this section, a  
193 county shall not levy local option sales surtaxes authorized in  
194 this paragraph and subsections (2) and (3) in excess of a  
195 combined rate of 1 percent.

196 (b) Notwithstanding any other provision of this section,  
197 the governing body in each county the government of which is not  
198 consolidated with that of one or more municipalities and which  
199 has a population of fewer ~~less~~ than 800,000 residents, may levy,  
200 by ordinance subject to approval by at least 60 percent ~~a~~  
201 ~~majority~~ of the electors of the county voting in a referendum, a  
202 discretionary sales surtax at a rate that may not exceed 0.25  
203 percent for the sole purpose of funding trauma services provided  
204 by a trauma center licensed pursuant to chapter 395. The  
205 referendum must be held on the day of a general election.

206 1. A statement that includes a brief and general

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207 description of the purposes to be funded by the surtax and that  
 208 conforms to the requirements of s. 101.161 shall be placed on  
 209 the ballot by the governing body of the county. The following  
 210 shall be placed on the ballot:

211  
 212 FOR THE. . . .CENTS TAX  
 213 AGAINST THE. . . .CENTS TAX  
 214

215 2. The ordinance adopted by the governing body of the  
 216 county providing for the imposition of the surtax shall set  
 217 forth a plan for providing trauma services to trauma victims  
 218 presenting in the trauma service area in which such county is  
 219 located.

220 3. Moneys collected pursuant to this paragraph remain the  
 221 property of the state and shall be distributed by the Department  
 222 of Revenue on a regular and periodic basis to the clerk of the  
 223 circuit court as ex officio custodian of the funds of the  
 224 authorizing county. The clerk of the circuit court shall:

225 a. Maintain the moneys in a trauma services trust fund.

226 b. Invest any funds held on deposit in the trust fund  
 227 pursuant to general law.

228 c. Disburse the funds, including any interest earned on  
 229 such funds, to the trauma center in its trauma service area, as  
 230 provided in the plan set forth pursuant to subparagraph 2., upon  
 231 directive from the authorizing county. If the trauma center  
 232 receiving funds requests such funds be used to generate federal  
 233 matching funds under Medicaid, the custodian of the funds shall  
 234 instead issue a check to the Agency for Health Care  
 235 Administration to accomplish that purpose to the extent that the



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236 agency is allowed through the General Appropriations Act.

237 d. Prepare on a biennial basis an audit of the trauma  
238 services trust fund specified in sub-subparagraph a., to be  
239 delivered to the authorizing county.

240 4. A discretionary sales surtax imposed pursuant to this  
241 paragraph shall expire 4 years after the effective date of the  
242 surtax, unless reenacted by ordinance subject to approval by at  
243 least 60 percent ~~a majority~~ of the electors of the county voting  
244 in a subsequent referendum held on the day of a general  
245 election.

246 5. Notwithstanding any other provision of this section, a  
247 county shall not levy local option sales surtaxes authorized in  
248 this paragraph and subsections (2) and (3) in excess of a  
249 combined rate of 1 percent.

250 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in  
251 s. 125.011(1) may levy the surtax authorized in this subsection  
252 pursuant to an ordinance either approved by extraordinary vote  
253 of the county commission or conditioned to take effect only upon  
254 approval by at least 60 percent ~~a majority vote~~ of the electors  
255 of the county voting in a referendum. In a county as defined in  
256 s. 125.011(1), for the purposes of this subsection, "county  
257 public general hospital" means a general hospital as defined in  
258 s. 395.002 which is owned, operated, maintained, or governed by  
259 the county or its agency, authority, or public health trust.

260 (a) The rate shall be 0.5 percent.

261 (b) If the ordinance is conditioned on a referendum, the  
262 proposal to adopt the county public hospital surtax shall be  
263 placed on the ballot in accordance with law ~~at a time to be set~~  
264 ~~at the discretion of the governing body~~. The referendum must be

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265 held on the day of a general election. The referendum question  
266 on the ballot shall include a brief general description of the  
267 health care services to be funded by the surtax.

268 (c) Proceeds from the surtax shall be:

269 1. Deposited by the county in a special fund, set aside  
270 from other county funds, to be used only for the operation,  
271 maintenance, and administration of the county public general  
272 hospital; and

273 2. Remitted promptly by the county to the agency,  
274 authority, or public health trust created by law which  
275 administers or operates the county public general hospital.

276 (d) Except as provided in subparagraphs 1. and 2., the  
277 county must continue to contribute each year an amount equal to  
278 at least 80 percent of that percentage of the total county  
279 budget appropriated for the operation, administration, and  
280 maintenance of the county public general hospital from the  
281 county's general revenues in the fiscal year of the county  
282 ending September 30, 1991:

283 1. Twenty-five percent of such amount must be remitted to a  
284 governing board, agency, or authority that is wholly independent  
285 from the public health trust, agency, or authority responsible  
286 for the county public general hospital, to be used solely for  
287 the purpose of funding the plan for indigent health care  
288 services provided for in paragraph (e);

289 2. However, in the first year of the plan, a total of \$10  
290 million shall be remitted to such governing board, agency, or  
291 authority, to be used solely for the purpose of funding the plan  
292 for indigent health care services provided for in paragraph (e),  
293 and in the second year of the plan, a total of \$15 million shall

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294 be so remitted and used.

295 (e) A governing board, agency, or authority shall be  
296 chartered by the county commission upon this act becoming law.  
297 The governing board, agency, or authority shall adopt and  
298 implement a health care plan for indigent health care services.  
299 The governing board, agency, or authority shall consist of no  
300 more than seven and no fewer than five members appointed by the  
301 county commission. The members of the governing board, agency,  
302 or authority shall be at least 18 years of age and residents of  
303 the county. No member may be employed by or affiliated with a  
304 health care provider or the public health trust, agency, or  
305 authority responsible for the county public general hospital.  
306 The following community organizations shall each appoint a  
307 representative to a nominating committee: the South Florida  
308 Hospital and Healthcare Association, the Miami-Dade County  
309 Public Health Trust, the Dade County Medical Association, the  
310 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade  
311 County. This committee shall nominate between 10 and 14 county  
312 citizens for the governing board, agency, or authority. The  
313 slate shall be presented to the county commission and the county  
314 commission shall confirm the top five to seven nominees,  
315 depending on the size of the governing board. Until such time as  
316 the governing board, agency, or authority is created, the funds  
317 provided for in subparagraph (d)2. shall be placed in a  
318 restricted account set aside from other county funds and not  
319 disbursed by the county for any other purpose.

320 1. The plan shall divide the county into a minimum of four  
321 and maximum of six service areas, with no more than one  
322 participant hospital per service area. The county public general

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323 hospital shall be designated as the provider for one of the  
324 service areas. Services shall be provided through participants'  
325 primary acute care facilities.

326 2. The plan and subsequent amendments to it shall fund a  
327 defined range of health care services for both indigent persons  
328 and the medically poor, including primary care, preventive care,  
329 hospital emergency room care, and hospital care necessary to  
330 stabilize the patient. For the purposes of this section,  
331 "stabilization" means stabilization as defined in s.  
332 397.311(41). Where consistent with these objectives, the plan  
333 may include services rendered by physicians, clinics, community  
334 hospitals, and alternative delivery sites, as well as at least  
335 one regional referral hospital per service area. The plan shall  
336 provide that agreements negotiated between the governing board,  
337 agency, or authority and providers shall recognize hospitals  
338 that render a disproportionate share of indigent care, provide  
339 other incentives to promote the delivery of charity care to draw  
340 down federal funds where appropriate, and require cost  
341 containment, including, but not limited to, case management.  
342 From the funds specified in subparagraphs (d)1. and 2. for  
343 indigent health care services, service providers shall receive  
344 reimbursement at a Medicaid rate to be determined by the  
345 governing board, agency, or authority created pursuant to this  
346 paragraph for the initial emergency room visit, and a per-member  
347 per-month fee or capitation for those members enrolled in their  
348 service area, as compensation for the services rendered  
349 following the initial emergency visit. Except for provisions of  
350 emergency services, upon determination of eligibility,  
351 enrollment shall be deemed to have occurred at the time services

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352 were rendered. The provisions for specific reimbursement of  
353 emergency services shall be repealed on July 1, 2001, unless  
354 otherwise reenacted by the Legislature. The capitation amount or  
355 rate shall be determined prior to program implementation by an  
356 independent actuarial consultant. In no event shall such  
357 reimbursement rates exceed the Medicaid rate. The plan must also  
358 provide that any hospitals owned and operated by government  
359 entities on or after the effective date of this act must, as a  
360 condition of receiving funds under this subsection, afford  
361 public access equal to that provided under s. 286.011 as to any  
362 meeting of the governing board, agency, or authority the subject  
363 of which is budgeting resources for the retention of charity  
364 care, as that term is defined in the rules of the Agency for  
365 Health Care Administration. The plan shall also include  
366 innovative health care programs that provide cost-effective  
367 alternatives to traditional methods of service and delivery  
368 funding.

369 3. The plan's benefits shall be made available to all  
370 county residents currently eligible to receive health care  
371 services as indigents or medically poor as defined in paragraph  
372 (4) (d).

373 4. Eligible residents who participate in the health care  
374 plan shall receive coverage for a period of 12 months or the  
375 period extending from the time of enrollment to the end of the  
376 current fiscal year, per enrollment period, whichever is less.

377 5. At the end of each fiscal year, the governing board,  
378 agency, or authority shall prepare an audit that reviews the  
379 budget of the plan, delivery of services, and quality of  
380 services, and makes recommendations to increase the plan's

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381 efficiency. The audit shall take into account participant  
382 hospital satisfaction with the plan and assess the amount of  
383 poststabilization patient transfers requested, and accepted or  
384 denied, by the county public general hospital.

385 (f) Notwithstanding any other provision of this section, a  
386 county may not levy local option sales surtaxes authorized in  
387 this subsection and subsections (2) and (3) in excess of a  
388 combined rate of 1 percent.

389 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

390 (a) The school board in each county may levy, pursuant to  
391 resolution conditioned to take effect only upon approval by at  
392 least 60 percent ~~a majority vote~~ of the electors of the county  
393 voting in a referendum, a discretionary sales surtax at a rate  
394 that may not exceed 0.5 percent. The referendum must be held on  
395 the day of a general election.

396 (7) VOTER-APPROVED INDIGENT CARE SURTAX.—

397 (a)1. The governing body in each county that has a  
398 population of fewer than 800,000 residents may levy an indigent  
399 care surtax pursuant to an ordinance conditioned to take effect  
400 only upon approval by at least 60 percent ~~a majority vote~~ of the  
401 electors of the county voting in a referendum held on the day of  
402 a general election. The surtax may be levied at a rate not to  
403 exceed 0.5 percent, except that if a publicly supported medical  
404 school is located in the county, the rate shall not exceed 1  
405 percent.

406 2. Notwithstanding subparagraph 1., the governing body of  
407 any county that has a population of fewer than 50,000 residents  
408 may levy an indigent care surtax pursuant to an ordinance  
409 conditioned to take effect only upon approval by at least 60

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410 percent ~~a majority vote~~ of the electors of the county voting in  
411 a referendum held on the day of a general election. The surtax  
412 may be levied at a rate not to exceed 1 percent.

413 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

414 (b) Upon the adoption of the ordinance, the levy of the  
415 surtax must be placed on the ballot by the governing authority  
416 of the county enacting the ordinance. The ordinance will take  
417 effect if approved by at least 60 percent ~~a majority~~ of the  
418 electors of the county voting in a referendum held on the day of  
419 a general election ~~for such purpose~~. ~~The referendum shall be~~  
420 ~~placed on the ballot of a regularly scheduled election~~. The  
421 ballot for the referendum must conform to the requirements of s.  
422 101.161.

423 (9) FUNDING FOR DISCRETIONARY SALES SURTAXES.—Except for  
424 the use of county or school district funds appropriated  
425 specifically for the purpose of promoting or advertising a  
426 proposed surtax, a county or school district may not expend  
427 state or county funds or use county or school district materials  
428 or publications to promote or advertise a proposed surtax  
429 referendum to the electors of the county for any surtax  
430 identified in this section.

431 (10) DEFINITION.—For purposes of this section, the term  
432 “day of a general election” means the day that a general  
433 election, as defined in s. 97.021, is held, which as provided in  
434 s. 5, Art. VI of the State Constitution may be suspended or  
435 delayed due to a state of emergency or impending emergency.

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** January 5, 2016

---

I respectfully request that **Senate Bill #1100**, relating to **Local Tax Referenda**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal line extending to the right.

---

Senator Jeff Brandes  
Florida Senate, District 22



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/16/16  
Meeting Date

1100  
Bill Number (if applicable)

429170  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name DAVIN Suggs

Job Title Fiscal Policy Director

Address \_\_\_\_\_  
Street

Phone 850-320-2635

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

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing FL. Association of Counties

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)

2/16/16  
Meeting Date

1100  
Bill Number (if applicable)  
429170  
Amendment Barcode (if applicable)

Topic Local Surtax Referenda

Name Amber Hughes

Job Title Senior Legislative Advocate

Address PO Box 1957  
Street

Phone 850-701-3021

Tallahassee FL 32302  
City State Zip

Email ahughes@flcities.com

Speaking:  For  Against  Information

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

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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)

2/16/2016

Meeting Date

Topic \_\_\_\_\_

Bill Number 1106

Name BRIAN PITTS

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

Job Title TRUSTEE

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

Address 1119 NEWTON AVNUE SOUTH  
*Street*

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705  
*City State Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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





## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**

302 Senate Office Building

**Mailing Address**

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

| DATE     | COMM | ACTION      |
|----------|------|-------------|
| 1/8/16   | SM   | Unfavorable |
| 02/08/16 | JU   | Favorable   |
| 02/16/16 | CA   | Favorable   |
|          | FP   |             |

January 8, 2016

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

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

### SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED EQUITABLE CLAIM FOR LOCAL FUNDS IN THE TOTAL AMOUNT OF \$400,000 (\$200,000 FOR THE ESTATE OF ALEX ZALDIVAR AND \$100,000 APEICE FOR BRIENNA AND REMINGTON CAMPOS) AGAINST ORANGE COUNTY FOR NEGLIGENCE IN FAILING TO MONITOR BESSMAN OKAFOR, A DETAINEE OF THE COUNTY ON PAROLE WITH AN ANKLE MONITOR WHILE AWAITING TRIAL FOR A HOME INVASION ROBBERY, WHO, ON SEPTEMBER 10, 2013, RETURNED TO THE SCENE OF THE ROBBERY, SHOT AND INJURED BRIENNA AND REMINGTON CAMPOS, AND SHOT AND KILLED ALEX ZALDIVAR.

#### FINDINGS OF FACT:

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

---

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

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

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

Between the time of Okafor's release and the events of September 10, 2013, the plaintiffs were visited on three occasions by Okafor's mother who offered them various forms of compensation in exchange for not testifying against Okafor. The plaintiffs refused and, after the third time, reported the visits to the Ocoee police.

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

---

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

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

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

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

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

On June 23, 2012, plaintiffs sent a settlement demand to representatives of Orange County alleging that Orange County's negligence in operating its Home Confinement Program led to the injuries sustained by the plaintiffs. Ultimately, the plaintiffs settled with Orange County and agreed to release the county of all liability regarding their cases. The estate of Alex Zaldivar settled with Orange County on September 8, 2014, in the amount of \$300,000 of which \$100,000 has been paid by the county. Both Brienna and Remington Campos also settled with Orange County on September 5, 2014, in the amount of \$200,000 each, of which \$100,000 has also been paid. Orange County is self-insured for such damages up to \$1 million. In the settlement agreements, the county also agreed to an unopposed claims bills filed for the remaining amounts of the settlement on behalf of the plaintiffs.

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

CONCLUSIONS OF LAW:

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

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

---

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

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

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

<sup>7</sup> *Everton v. Willard*, 468 So. 2<sup>nd</sup> 936 (Supreme Court of Florida, 1985) at 10.

<sup>8</sup> 15 N.E.2d 534.



“owes a special duty to use reasonable care for the protection of persons who have collaborated with it in the arrest and prosecution of criminals, once it reasonably appears that they are in danger due to their collaboration.”<sup>9</sup>

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

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

ATTORNEYS FEES:

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

---

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

RECOMMENDATIONS:

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

Respectfully submitted,

Daniel Looke  
Senate Special Master

cc: Secretary of the Senate

By Senator Diaz de la Portilla

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1                                   A bill to be entitled  
2       An act for the relief of Rafael Zaldivar and Kyoko  
3       Zaldivar, parents of Alex Zaldivar, deceased,  
4       individually and as co-personal representatives of the  
5       Estate of Alex Zaldivar, and Brienna Campos and  
6       Remington Campos by Orange County; providing for an  
7       appropriation to compensate Rafael Zaldivar and Kyoko  
8       Zaldivar for the death of Alex Zaldivar and to  
9       compensate Brienna Campos and Remington Campos for the  
10      injuries and damages they sustained as a result of the  
11      negligence of Orange County; providing a limitation on  
12      the payment of fees and costs; providing an effective  
13      date.

14  
15       WHEREAS, on September 10, 2012, Alex Zaldivar, deceased,  
16      Brienna Campos, and Remington Campos were attacked and shot  
17      during a home invasion robbery perpetrated by Bessman Okafor,  
18      who was being monitored by Orange County Corrections  
19      Department's Community Corrections Division, and

20       WHEREAS, the Estate of Alex Zaldivar and Brienna Campos and  
21      Remington Campos have alleged that the negligence of Orange  
22      County was the proximate cause of the death of Alex Zaldivar and  
23      the injuries sustained by Brienna Campos and Remington Campos,  
24      and

25       WHEREAS, Rafael Zaldivar and Kyoko Zaldivar, as parents of  
26      Alex Zaldivar, and Brienna Campos and Remington Campos have  
27      suffered extreme mental anguish and undergone great suffering as  
28      a result of the events of September 10, 2012, and

29       WHEREAS, Orange County and the Estate of Alex Zaldivar have

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30 agreed to settle the Estate's claim for \$300,000; Orange County  
31 and Brienna Campos have agreed to settle her claim for \$200,000;  
32 and Orange County and Remington Campos have agreed to settle his  
33 claim for \$200,000, and

34 WHEREAS, pursuant to the settlement agreements, Orange  
35 County has paid \$100,000 to each of the claimants, leaving an  
36 unpaid balance of \$200,000 for the Estate of Alex Zaldivar and  
37 \$100,000 each for Brienna Campos and Remington Campos, and

38 WHEREAS, the respective claims of the Estate of Alex  
39 Zaldivar, Brienna Campos, and Remington Campos will be fully  
40 satisfied upon payment by Orange County to the Estate of Alex  
41 Zaldivar in the amount \$200,000, to Brienna Campos in the amount  
42 of \$100,000, and to Remington Campos in the amount of \$100,000  
43 with the passage of a claim bill to pay the remaining balances,  
44 NOW, THEREFORE,

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

47  
48 Section 1. The facts stated in the preamble to this act are  
49 found and declared to be true.

50 Section 2. Orange County is authorized and directed to  
51 appropriate from funds of the county not otherwise appropriated  
52 and to draw a warrant in the sum of \$200,000 payable to the  
53 Estate of Alex Zaldivar, as compensation for injuries and  
54 damages sustained by Rafael Zaldivar and Kyoko Zaldivar, as  
55 parents of Alex Zaldivar, deceased; a warrant in the sum of  
56 \$100,000 payable to Brienna Campos as compensation for the  
57 injuries and damages sustained by the claimant, and a warrant in  
58 the sum of \$100,000 payable to Remington Campos as compensation

40-00040-16

201620\_\_

59 for the injuries and damages sustained by the claimant.

60 Section 3. The amount paid by Orange County pursuant to s.  
61 768.28, Florida Statutes, and the amount awarded under this act  
62 are intended to provide the sole compensation for all present  
63 and future claims arising out of the factual situation described  
64 in the preamble to this act which resulted in the death of Alex  
65 Zaldivar and the injuries to Brienna Campos and Remington  
66 Campos. The total amount paid for attorney fees, lobbying fees,  
67 costs, and similar expenses relating to this claim may not  
68 exceed 25 percent of the total amount awarded under this act.  
69 However, taxable costs, which may not include attorney fees and  
70 lobbying fees, related to the underlying civil action may be  
71 collected in addition to the aforementioned attorney fees and  
72 lobbying fees.

73 Section 4. This act shall take effect upon becoming a law.



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

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 1152

INTRODUCER: Community Affairs Committee and Senator Diaz de la Portilla

SUBJECT: Classified Advertisement Websites

DATE: February 16, 2016

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

---

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Cochran | Yeatman        | CA        | Fav/CS |
| 2. |         |                | AGG       |        |
| 3. |         |                | FP        |        |

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1152 authorizes local governments to designate safe-haven facilities for sales transactions for items advertised on classified advertisement websites.

**II. Present Situation:**

**Online Transaction Safe-Haven Laws**

In response to a continuing trend of crimes stemming from transactions related to online classified advertisement websites, such as Craigslist, a number of police departments have opened their lobbies and parking lots to citizens to complete the sales transactions. Conducting transactions in police lobbies or parking lots deters crime for obvious reasons, including the proximity of police officers and the likelihood of surveillance by security cameras.

In May 2014, after a series of robberies related to Craigslist transactions, the East Chicago Police Department began "Operation Safe Sale," and offered the use of its headquarters parking lot and lobby to conduct transactions.<sup>1</sup> The police department even offered supervision during certain

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<sup>1</sup> Juan Perez Jr., *East Chicago Police Offer Up Their Lobby, Parking Lot for Craigslist Transactions*, CHICAGO TRIBUNE, (May 01, 2014) available at [http://articles.chicagotribune.com/2014-05-01/news/chi-east-chicago-police-offer-up-their-lobby-parking-lot-for-craigslist-transactions-20140501\\_1\\_craigslist-transactions-becker-lobby](http://articles.chicagotribune.com/2014-05-01/news/chi-east-chicago-police-offer-up-their-lobby-parking-lot-for-craigslist-transactions-20140501_1_craigslist-transactions-becker-lobby) (last visited February 10, 2016).

hours.<sup>2</sup> If supervision is not requested, the parking lot and police lobby are available for use for transactions any time.<sup>3</sup>

In January 2015, the Virginia Beach, Virginia, Police Department launched the “Find a Safe Place” initiative, in which it offered the use of the police department’s lobby for transactions arranged through classified advertisement websites.<sup>4</sup> Police lobbies are available for use daily during certain times.<sup>5</sup> However, the police department prohibited transactions involving “large, cumbersome household items, appliances and landscape care equipment,” or “the sale of any contraband, stolen property, or other illegal items.”<sup>6</sup>

In February 2015, the Toledo, Ohio, Police Department announced it would be making designated parking spots in front of one of its stations available for anyone to complete an online sales transaction.<sup>7</sup>

Florida police departments have also created safe havens at their facilities. In July 2014, the Boca Raton Police Department, in response to “at least three cases in June where people were ripped off by buyers when trying to sell something off Craigslist,” offered the Department’s lobby and parking lot for transactions.<sup>8</sup> Several other police departments across the state are also implementing safe havens, including Port Orange, Flagler, and Pinecrest.<sup>9</sup> Miami-Dade has designated 11 safe haven locations, of which 8 are open 24 hours, 7 days a week.<sup>10</sup>

### III. Effect of Proposed Changes:

This bill encourages local governments to establish state safe-haven facilities to conduct sales transactions related to classified advertisement websites. Safe-haven facilities are those designated by state or local government as places where persons can effect sales transactions safely.

---

<sup>2</sup> *Id.*

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

<sup>4</sup> Becca Mitchell and Todd Corillo, *Virginia Beach Police Offering Precinct Lobbies as a Safe Place for Craigslist Transactions*, WTKR NEWS CHANNEL 3, (January 27, 2015) available at <http://wtkr.com/2015/01/27/virginia-beach-police-offering-precinct-lobby-as-a-safe-place-for-craigslist-transactions/> (last visited February 10, 2016).

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

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

<sup>7</sup> Angi Gonzalez, *Toledo Police to Offer Safe Haven to Craigslist Users*, WNWO NBC 24, (February 24, 2015), available at <http://www.nbc24.com/news/story.aspx?id=1168859#.VQCK-nF91A> (last visited February 10, 2016).

<sup>8</sup> Kate Jacobsen, *Boca Raton Police Ask Craigslist Sellers to Use Station Lobby*, THE SUN-SENTINEL, (July 5, 2014), available at [http://articles.sun-sentinel.com/2014-07-05/news/fl-boca-raton-craigslist-lobby-20140701\\_1\\_boca-raton-police-station-lobby-craigslist-sellers](http://articles.sun-sentinel.com/2014-07-05/news/fl-boca-raton-craigslist-lobby-20140701_1_boca-raton-police-station-lobby-craigslist-sellers) (last visited February 10, 2016).

<sup>9</sup> Matt Bruce, *Flagler Beach Police Station Doubles as Safe Haven for Online Deals*, The Daytona Beach News Journal, (May 13, 2015), available at <http://www.news-journalonline.com/article/20150513/NEWS/150519775?p=1&tc=pg> (last visited February 10, 2016); Lyda Longa, *Port Orange Police Sets up Safe Spot for Craigslist Transactions*, The Daytona Beach News Journal, (August 25, 2015), available at <http://www.news-journalonline.com/article/20150825/NEWS/150829664> (last visited February 10, 2016); CBS Miami, *Pinecrest Police Now a Safe Haven for Craigslist Transactions*, (October 15, 2015), available at <http://miami.cbslocal.com/2015/10/15/pinecrest-police-now-a-safe-haven-for-craigslist-transactions/> (last visited February 10, 2016).

<sup>10</sup> Miami-Dade Police Department, *Using the Internet to Buy or Sell Items?*, <http://www.miamidade.gov/police/safe-haven-for-exchanges.asp> (last visited February 10, 2016).



Local governmental bodies are authorized to designate at least:

- One state safe-haven facility in each county having a population of less than 250,000.
- Two state safe-haven facilities in each county having a population from 250,000 to less than 800,000.
- Four state safe-haven facilities in each county having a population of 800,000 or more.

Based on the 2010 census, 6 counties would require 4 state safe-haven facilities, 15 counties would require 2 facilities, and 46 counties would require 1 safe-haven facility.<sup>11</sup> The suggested options for local safe-haven facilities include sheriff's offices and county courthouses. Local governmental entities are not responsible for supervising, intervening in, or facilitating a sales transaction at a safe-haven facility.

This bill specifies that an action may not be initiated on a claim against the state or local government or any of its agencies or subdivisions based on an incident that occurs during a sales transaction at a safe-haven facility involving an individual who is not an officer, employee, or agent of the state or local government or of its agencies or subdivisions.

The bill takes effect July 1, 2016.

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

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

None.

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

None.

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

None.

##### **D. Other Constitutional Issues:**

Sovereign immunity originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents unless the public entity expressly waives immunity.

Article X, s. 13, of the Florida Constitution recognizes sovereign immunity and authorizes the Legislature to provide a waiver of immunity. Section 768.28(1), F.S., provides a broad waiver of sovereign immunity. But by law, liability to pay a claim or judgment is limited to \$200,000 per plaintiff or \$300,000 per incident.<sup>12</sup>

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<sup>11</sup> Department of Management Services, *Senate Bill 1152 Analysis* (February 11, 2016) (on file with the Senate Committee on Community Affairs).

<sup>12</sup> Section 768.28(5), F.S.

This bill appears to provide absolute immunity, but only to the extent that an injury or damages arise out of a sales transaction at a designated safe-haven involving an individual who is not an officer, employee, or agent of the state or local government or of its agencies or subdivisions. Accordingly, this bill creates an exception to the broad waiver of sovereign immunity under s. 768.28, F.S.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This bill may encourage more private buyers and sellers to engage in sales transactions through websites such as Craigslist if a safe location exists for the actual exchange of goods for money.

**C. Government Sector Impact:**

Local governments could incur a fiscal impact due to the provisions of this bill relating to the designation and operation of safe-haven facilities for sales transactions from classified advertising websites. However, local governments are in complete control of the costs because the creation of safe-haven facilities is voluntary.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 501.180 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 Community Affairs on February 16, 2016:**

Removes DMS from the bill, and authorizes local governmental bodies to designate safe-haven facilities.

B. Amendments:

None.

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

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577974

LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 02/16/2016 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

The Committee on Community Affairs (Diaz de la Portilla) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 501.180, Florida Statutes, is created to read:

501.180 Safe-haven facilities.—

(1) As used in this section, the term "safe-haven facility" means a public local government building approved by the local governmental body to be used by the public for the purpose of



577974

11 conducting a sales transaction involving an item or a service  
12 that was offered for sale on a classified advertisement website.

13 (2) Local governmental bodies may designate at least:

14 (a) One safe-haven facility in each county with a  
15 population of less than 250,000 residents.

16 (b) Two safe-haven facilities in each county with at least  
17 250,000 but less than 800,000 residents.

18 (c) Four safe-haven facilities in each county with 800,000  
19 or more residents.

20 (3) A safe-haven facility must be easily accessible so that  
21 an individual is not discouraged from using the location. A  
22 local governmental body may approve the use of a public local  
23 government building, such as a sheriff's office or a county  
24 courthouse, to serve as a safe-haven facility.

25 (4) A local governmental entity, or its officers,  
26 employees, or agents, that provides a safe-haven facility is not  
27 responsible for overseeing the sales transaction and is not  
28 otherwise liable for the actions of the parties involved in the  
29 transaction or nonparties present at the transaction.

30 (5) An action may not be initiated on a claim against the  
31 state or local government or any of its agencies or subdivisions  
32 based on an incident that occurs during a sales transaction at a  
33 safe-haven facility involving an individual who is not an  
34 officer, employee, or agent of the state or local government or  
35 of its agencies or subdivisions.

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

37  
38 ===== T I T L E A M E N D M E N T =====

39 And the title is amended as follows:



577974

40 Delete everything before the enacting clause  
41 and insert:

42 A bill to be entitled  
43 An act relating to classified advertisement websites;  
44 creating s. 501.180, F.S.; defining the term "safe-  
45 haven facility"; authorizing local governmental bodies  
46 to designate a specified number of safe-haven  
47 facilities in each county based upon population size;  
48 authorizing a local governmental body to approve the  
49 use of local government buildings to serve as safe-  
50 haven facilities; limiting the liability of any local  
51 governmental entity that provides a safe-haven  
52 facility; limiting actions against the state or local  
53 government related to transactions taking place at a  
54 safe-haven facility; providing an effective date.

55  
56 WHEREAS, there have been a number of cases throughout this  
57 state in which people selling cellphones, computers, or other  
58 valuable goods through classified advertisement websites have  
59 been targeted by criminals who intended to rob them when they  
60 met to exchange goods for cash, and

61 WHEREAS, even when the victims of these crimes select  
62 public and populated locations for the transactions that they  
63 feel are safe, such as shopping centers or parks, they still  
64 fall prey to these criminals, and

65 WHEREAS, identifying locations to serve as safe havens for  
66 transactions related to classified advertisement websites will  
67 deter these crimes and provide greater safety throughout the  
68 state, NOW, THEREFORE,

By Senator Diaz de la Portilla

40-01240-16

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1                   A bill to be entitled  
2           An act relating to classified advertisement websites;  
3           creating s. 501.181, F.S.; defining terms; encouraging  
4           the Department of Management Services to designate a  
5           specified number of state safe-haven facilities in  
6           each county based upon population; authorizing public  
7           state governmental buildings to serve as state safe-  
8           haven facilities; providing guidelines for the  
9           placement and operation of safe-haven facilities;  
10          specifying that the department is not responsible for  
11          regulating sales transactions; authorizing local  
12          governments to approve the use of public local  
13          governmental buildings as local safe-haven facilities;  
14          specifying that the state or local government and its  
15          officers, employees, or agents are not responsible for  
16          supervising, intervening in, or facilitating sales  
17          transactions; limiting the liability of the state and  
18          any local government, and of the officers, employees,  
19          or agents of the state or any local government, that  
20          provides a state safe-haven facility or local safe-  
21          haven facility; specifying that the section does not  
22          reduce liability or rights in tort from incidents  
23          unrelated to sales transactions; providing an  
24          effective date.

25  
26          WHEREAS, there have been a number of cases throughout this  
27          state in which people selling cellular phones, computers, or  
28          other goods through classified advertisement websites have been  
29          targeted by criminals who intend to rob them when they meet to  
30          exchange goods for cash, and

31          WHEREAS, even when the victims of these crimes select  
32          public and populated locations that they believe are safe, such

40-01240-16

20161152\_\_

33 as shopping centers or parks, to execute the transactions, they  
34 still fall prey to these criminals, and

35 WHEREAS, identifying locations to serve as safe havens for  
36 transactions related to classified advertisement websites will  
37 likely deter these crimes and provide for greater safety  
38 throughout the state, NOW, THEREFORE,

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

41  
42 Section 1. Section 501.181, Florida Statutes, is created to  
43 read:

44 501.181 Safe-haven facilities.—

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

46 (a) "Building" means a structure with a roof and walls and  
47 any area surrounding the structure which is on the same property  
48 as the structure or on property that is owned, maintained, or  
49 occupied by the same entity that owns, maintains, or occupies  
50 the structure; which is open to the public; and which includes,  
51 but is not limited to, courtyards, parking lots, and lawns.

52 (b) "Classified advertisement website" means a web-based  
53 advertisement site that lists items for sale or items wanted for  
54 purchase or acquisition.

55 (c) "Department" means the Department of Management  
56 Services.

57 (d) "Local safe-haven facility" means a public local  
58 governmental building approved by the local governmental body to  
59 be used by the public to execute sales transactions, or as  
60 otherwise determined and approved by the local governmental  
61 body.



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20161152\_\_

62       (e) "Sales transaction" or "transaction" means an in-person  
63 exchange of an item that was offered for sale or listed as  
64 wanted for purchase in a classified advertisement and in which  
65 the parties to the exchange arrange to meet at a state safe-  
66 haven facility or local safe-haven facility for the purpose of  
67 executing the exchange, or an in-person exchange of an item that  
68 was both contemplated and executed at a state safe-haven  
69 facility or local safe-haven facility. The exchange of money for  
70 goods is not a necessary element of such a transaction.

71       (f) "State safe-haven facility" means a public state  
72 governmental building that has a designated area where  
73 individuals may execute sales transactions.

74       (2) The department is authorized to designate at least:

75       (a) One state safe-haven facility in each county having a  
76 population of less than 250,000;

77       (b) Two state safe-haven facilities in each county having a  
78 population of at least 250,000, but less than 800,000; and

79       (c) Four state safe-haven facilities in each county having  
80 a population of 800,000 or more.

81       (3) A state safe-haven facility should be easily accessible  
82 so an individual is not discouraged from using the location. A  
83 public state governmental building, including, but not limited  
84 to, a state college or university, Florida Highway Patrol  
85 station, or other public state office building may serve as a  
86 state safe-haven facility.

87       (4) The department may designate one or more indoor and  
88 outdoor areas at each state safe-haven facility that may be used  
89 by individuals to execute sales transactions during the hours  
90 that the state safe-haven facility is open to the public.

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20161152\_\_

91 (5) Other than as provided for in this section, the  
92 department is not responsible for regulating sales transactions  
93 at state safe-haven facilities.

94 (6) Local governmental bodies may approve the use of public  
95 local governmental buildings, such as sheriff's offices, county  
96 courthouses, and other public local governmental office  
97 buildings, to serve as local safe-haven facilities. This section  
98 does not preempt a local governmental body from regulating or  
99 otherwise governing the use and functions of local safe-haven  
100 facilities. Local governmental bodies may adopt different  
101 definitions of the terms specified in subsection (1) as  
102 applicable to local safe-haven facilities.

103 (7) The state or a local government and its officers,  
104 employees, or agents are not responsible for supervising,  
105 intervening in, or facilitating a sales transaction or otherwise  
106 responsible for providing security to supervise or intervene in  
107 the transaction and are not otherwise liable for the actions of  
108 the parties involved in the transaction or nonparties present to  
109 the transaction.

110 (8) The state and local governments and their respective  
111 agencies and subdivisions may not be held liable in tort or  
112 named as a party defendant in any action for any injury or  
113 damage suffered as a result of any incident arising from a sales  
114 transaction. An officer, employee, or agent of the state or  
115 local government, or any of their agencies or subdivisions, may  
116 not be held personally liable in tort or named as a party  
117 defendant in any action for any injury or damage suffered as a  
118 result of any incident arising from a sales transaction unless  
119 such officer, employee, or agent acted outside the scope of her

40-01240-16

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120 or his employment, or in bad faith or with malicious purpose or  
121 in a manner exhibiting wanton and willful disregard for human  
122 rights, safety, or property.

123 (9) Subject to and as provided in s. 768.28, this section  
124 does not reduce or limit the liability or rights of the state or  
125 any local government, or any of their agencies or subdivisions,  
126 or of the officers, employees, or agents of the state or local  
127 government, in tort based on an incident that did not arise  
128 from, or was caused by, a sales transaction.

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

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

**SENATOR MIGUEL DIAZ de la PORTILLA**

40th District

January 20, 2016

The Honorable Wilton Simpson  
Chair  
Community Affairs Committee

Dear Chairman Simpson:

Please agenda the following bill at the next opportunity:

SB 1152: Classified Advertisement Websites

Thank you.

Sincerely,

Miguel Diaz de la Portilla  
State Senator, District 40

Cc: Mr. Tom Yeatman, Staff Director;  
Ms. Ann Whittaker, Committee Administrative Assistant

REPLY TO:

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

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1152

Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date \_\_\_\_\_

Topic \_\_\_\_\_

Name JESS MCCARTY

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

Address 111 NW 1st St

Street

MIAMI 33128

City

State

Zip

Phone 305-979-7110

Email JMCCARTY@MIAMI-DADE.SOL

Speaking:  For  Against  Information

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

Representing MIAMI - DADE COUNTY

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)

2-16-16

Meeting Date

1152

Bill Number (if applicable)

Topic CLASSIFIED WEBSITES

Name LAURA YOUMANS

Amendment Barcode (if applicable)

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

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

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

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

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 / 18 / 2016

Meeting Date

Topic \_\_\_\_\_

Name BRIAN PITTS

Bill Number 1152

(if applicable)

Job Title TRUSTEE

Amendment Barcode \_\_\_\_\_

(if applicable)

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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





**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 Community Affairs

---

BILL: CS/SB 1508

INTRODUCER: Community Affairs Committee and Senator Simpson

SUBJECT: Airport Zoning

DATE: February 16, 2016

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Price   | Eichin         | TR        | <b>Favorable</b> |
| 2. | Cochran | Yeatman        | CA        | <b>Fav/CS</b>    |
| 3. |         |                | AP        |                  |

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1508 substantially revises ch. 333, F.S., containing airport zoning provisions relating to the management of airspace and land use at or near airports. Generally, the bill:

- Updates statutory definitions and terms in accordance with federal regulations.
- Streamlines the current local airport protection zoning process to a simpler permitting model.
- Provides local governments the flexibility to structure and incorporate the airport protection zoning review process into existing local zoning review processes and repeals duplicative requirements for a variance process.
- Makes other grammatical, editorial, and conforming changes.

The bill is expected to present an indeterminate but positive fiscal impact resulting from simplification and streamlining of the state and local processes. See Section V.

The bill takes effect July 1, 2016.

**II. Present Situation:**

Due to the extensive chapter revision, the present situation for each section of the bill is discussed below in conjunction with the Effect of Proposed Changes.

### III. Effect of Proposed Changes:

#### **Airport Zoning**

Chapter 333, Florida Statutes, contains airport zoning provisions relating to the management of airspace and land use at or near airports. Generally, the chapter:

- Addresses permitting for structures exceeding federal obstruction standards;
- Requires adoption of certain airport zoning regulations;
- Provides a process for seeking variances from the zoning regulations;
- Sets out a process for appeal of decisions based on the zoning regulations;
- Requires boards of adjustment to hear and decide appeals;
- Provides for judicial review of any board of adjustment decision; and
- Establishes penalties and remedies for violations.

The Florida Department of Transportation (FDOT) in 2012 created a stakeholder working group to address problems with implementing this chapter. Representatives from airports, local planning and zoning departments, the Florida Defense Alliance, the League of Cities, the Florida Airports Council, the real estate development community, and the FDOT participated in the working group. The FDOT advises that ch. 333, F.S., “contains outdated and inconsistent provisions when compared to applicable federal regulations, contains internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing.”<sup>1</sup>

The FDOT advises it expects no substantive changes as a result of the bill’s proposed revisions; e.g., the existing requirements for issuance of permits are substantively unchanged. The number of permits issued or denied is not expected to change. Rather, the changes are designed to facilitate more uniform permitting, appeals, and review processes applied at the local level and provide clarity and predictability for those subject to airport zoning regulations.<sup>2</sup>

#### **Definitions**

##### *Present Situation*

Section 333.01, F.S., contains definitions related to airport zoning that need updating for internal chapter consistency and for consistency with federal regulations.

##### *Effect of Proposed Changes*

**Section 1** amends s. 333.01, F.S., to provide, revise, and delete definitions to:

- Reflect terminology used in federal regulations;
- Provide for consistency with Federal Aviation Administration (FAA) advisements;
- Remove antiquated terminology;
- Delete variances from definitions to reflect the streamlined permitting process effected in the bill; and

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<sup>1</sup> See the FDOT 2015 Agency Proposal, *Airspace and Land Use at Public Airports*, p. 1. (On file in the Senate Transportation Committee).

<sup>2</sup> Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.

- Otherwise provide clarity through editorial and grammatical changes.

## **Permitting for Structures Exceeding Federal Obstruction Standards**

### *Present Situation*

The Code of Federal Regulations (CFR) sets forth standards for structures that present a hazard within an area in an airport due to obstruction of the airspace required for aircraft to take off, maneuver, or land.<sup>3</sup> Section 333.025, F.S., requires a permit from the FDOT for any proposed construction or alteration of a structure that would exceed the federal standards.<sup>4</sup> A permit from the FDOT is not required if a political subdivision<sup>5</sup> has adopted adequate airspace protection regulations and filed them with the FDOT.

The FDOT must issue or deny a permit within 30 days of receipt of an application for any structure that would exceed the federal obstruction standards. The FDOT is prohibited from approving a permit unless the applicant submits both documentation showing compliance with federal notification requirements and a valid aeronautical evaluation.

### *Effect of Proposed Changes*

**Section 2** amends s. 333.025, F.S., to replace the term “geographic center” with “airport reference point,” which is located at the approximate geometric center of all usable runways and to update references to current federal regulations.

If a political subdivision has adopted adequate airport protection zoning regulations, placed the regulations on file with the FDOT, *and* the political subdivision has established a permitting process, a permit from the FDOT is not required for construction or alteration of an obstruction. Upon receipt of a complete permit application, the local government must provide a copy of the application to the FDOT. The bill provides a 15-day FDOT review period following receipt of the application, which must run concurrently with the established local permitting process.

The FDOT is required to review permit applications in conformity with s. 120.60, F.S., relating to licensing. The list of factors to be considered by the FDOT is revised to remove ambiguity and duplication, and to provide clarity. The FDOT must require the owner of a permitted obstruction to install, operate, and maintain marking and lighting in conformance with FAA standards, at the owner’s expense. The denial of a permit is subjected to the administrative review provisions of the Administrative Procedures Act.

## **Adoption of Airport Zoning Regulations**

### *Present Situation*

Section 333.03, F.S., requires political subdivisions with an airport hazard area<sup>6</sup> to adopt, administer, and enforce airport zoning regulations for the area. If the airport is owned or

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<sup>3</sup> See 14 C.F.R. part 77, subpart C (2015).

<sup>4</sup> Public airports are licensed under the provisions of ch. 330, F.S.

<sup>5</sup> Generally, a local governmental entity, see s. 333.01(9), F.S.

<sup>6</sup> The bill redefines “airport hazard” to mean an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities. The definition of

controlled by a political subdivision and has a hazard area outside of its territorial limits, the political subdivision and the political subdivision within which the hazard area is located must either adopt zoning regulations by interlocal agreement or create a joint airport zoning board with the power to do so. The airport zoning regulations must, at a minimum, require:

- A variance for any structure that would exceed the federal obstruction standards;
- Obstruction marking and lighting per s. 333.07(3), F.S.;
- Documentation of compliance with federal proposed construction notification and a valid aeronautical evaluation submitted by each person applying for a variance;
- Consideration of the same factors when determining whether to issue or deny a variance as required of the FDOT when considering permit applications; and
- No variance be approved solely on the basis that a structure will not exceed the federal obstruction standards.

The FDOT is required to issue copies of the federal obstruction standards in the CFR to each political subdivision with an airport hazard area, and issue certain airport zoning maps at no cost.

Interim land use compatibility zoning regulations must be adopted and must consider whether sanitary landfills are located within certain areas and whether any landfill will attract or sustain hazardous bird movements. If a public-use airport has conducted a federal noise study, residential construction and educational facilities are prohibited within the area. If no study is conducted, the same construction is prohibited within a certain distance.

Airport zoning regulations restricting new incompatible uses within runway clear zones must be adopted. Certain limited exceptions for construction of educational facilities in specified areas are authorized.

### *Effect of Proposed Changes*

**Section 3** amends s. 333.03, F.S., to eliminate the duplicative requirement for obtaining a variance for structures that would exceed federal obstruction standards, in favor of a local permitting process. Every political subdivision having an airport hazard area is required to adopt airport *protection* zoning regulations. In addition to editorial and grammatical revisions, this section revises language to:

- Replace citations to the federal obstruction standards contained in the CFR with terminology used in the CFR; i.e., permits for the “construction or alteration of any obstruction.”
- Remove the FDOT’s duty to provide copies of the federal obstruction standards contained in the CFR and to issue maps, and replace it with making the FDOT available to provide assistance with respect to the standards.
- Update citations to the CFR.
- Eliminate the reporting requirements related to birds at airports near landfills in favor of requiring the landfill operator to incorporate bird management techniques.
- Include substantial modification of existing incompatible uses in the required adopted regulations restricting such uses within runway *protection* zones.

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“obstruction” is revised, also to reflect terminology used in the federal standards for determining obstructions. “Airport hazard area” is redefined in the bill to mean any area of land or water upon which an airport hazard might be established.

- Remove the limited exceptions for construction of educational facilities when a noise study has been conducted in accordance with the federal regulations.
- Delete outdated language.
- Authorize an airport authority, local government, or other governing body operating a public-use airport to adopt more restrictive airport protection zoning regulations, per the FDOT, to allow restrictions appropriate to the local context of the airport.<sup>7</sup>

## **Guidelines Regarding Land Use Near Airports**

### ***Present Situation***

Section 333.065, F.S., requires the FDOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports. The guidelines must use certain acceptable and established quantitative measures.

### ***Effect of Proposed Changes***

**Section 7** repeals s. 333.065, F.S. The FDOT advises the deletion reflects completion of the FDOT Airport Compatible Land Use Guidebook.<sup>8</sup>

## **Permits, Variances, and Appeals**

### ***Present Situation***

Section 333.07, F.S., authorizes any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired. All such regulations must require a permit before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted.

If a nonconforming use, structure, or tree has been abandoned or is more than 80 percent torn down or deteriorated, a permit may not be issued under certain conditions. The owner of a nonconforming structure or tree may be compelled, at the owner's expense, to undergo certain actions to conform.

Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in violation of the adopted airport zoning regulations is authorized to apply to a board of adjustment for a variance from the regulations. Conditions for allowance of variations are provided. The FDOT is authorized to appeal any variance granted and to apply for judicial relief.

As a condition of any granted permit or variance, the administrative agency or board of adjustment must require the structure or tree owner to install, operate, and maintain at the

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<sup>7</sup> See the FDOT document provided to staff, *Proposed ch. 333, F.S. Amendments and Legislative Support Documentation*. (On file in the Senate Transportation Committee.)

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

owner's expense marking and lighting necessary to indicate to aircraft pilots the presence of an obstruction.

Section 333.08, F.S., authorizes any affected person or taxpayer; or any governing body of a political subdivision, the FDOT, or any joint airport zoning board, to appeal any decision of an administrative agency in its administration of adopted airport zoning regulations to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

### ***Effect of Proposed Changes***

**Section 8** amends s. 333.07, F.S., to streamline the permitting process, repeal the duplicative variance process, and facilitate implementation of the permitting process by local entities. More specifically, rather than authorizing any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired, the bill simply requires a permit to construct, alter, or allow an airport obstruction in an airport hazard area in violation of the adopted airport protection zoning regulations.

The political subdivision or its administrative agency must consider virtually the same standards as must be considered by the FDOT when issuing or denying a permit for structures exceeding federal obstruction standards. All variance provisions are removed in favor of the permitting process. In addition, provisions relating to a lien resulting from an owner's failure to take action to bring a nonconforming structure or tree into regulatory compliance are removed. The FDOT 45-day comment period is removed in favor of the shortened 15-day period of review for technical consistency described above. Obstruction marking and lighting is required in conformance with specific standards established by the FAA. Outdated language is repealed.

**Section 9** repeals s. 333.08, F.S., authorizing and providing requirements for appeals of zoning regulation decisions, in favor of relocated, modified appeals language in s. 333.09, F.S.

### **Administration of Airport Zoning Regulations**

#### ***Present Situation***

Section 333.09, F.S., requires all adopted airport zoning regulations to provide for administration and enforcement by an administrative agency; by any official, board, or other existing agency of the political subdivision adopting the regulations; or by one of the subdivisions that participated in creating a joint airport zoning board adopting the regulations. The duties of any such administrative agency include hearing and deciding all permits under s. 333.07, F.S., but not any of the powers delegated to the board of adjustment.

Section 333.10, F.S., currently requires all adopted airport zoning regulations to provide for a board of adjustment to hear and decide appeals and variances.

### *Effect of Proposed Changes*

**Section 10** amends s. 333.09, F.S., to remove the list of entities that may be an administrative agency, per the FDOT, to reflect correct community planning terminology.<sup>9</sup> Administration and enforcement is left to the affected political subdivision or its administrative agency. Also removed is the prohibition against an administrative agency exercising the powers delegated to the board of adjustment.

Political subdivisions required to adopt airport zoning regulations must establish a process to:

- Issue or deny permits consistent with s. 333.07, F.S.;
- Provide the FDOT with a copy of a complete permit application; and
- Enforce the issuance or denial of a permit or other determination made by the administrative agency with respect to airport zoning regulations.

Appeals must be taken within a reasonable time provided by the political subdivision or its administrative agency by filing a notice of appeal. An appeal stays all proceedings in the underlying action, unless the entity from which the appeal is taken certifies that a stay would cause imminent peril to life or property.

The political subdivision or its administrative agency must set a reasonable time for the hearing of appeals and decide appeals within a reasonable time. A party may appear in person, by agent, or by attorney. The subdivision or agency may affirm, reverse, or modify the decision on the permit or other determination from which the appeal is taken.

**Section 11** repeals s. 333.10, F.S., currently requiring all adopted airport zoning regulations to provide for a board of adjustment to hear and decide appeals and variances, in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

### **Judicial Review**

#### *Present Situation*

Section 333.11, F.S., authorizes any person aggrieved or any taxpayer affected by a decision of a board of adjustment, any governing body of a political subdivision, the FDOT, any joint airport zoning board, or any administrative agency to apply for judicial relief in the judicial circuit court where the board of adjustment is located. The section provides procedural provisions related to the board of adjustment, describes the court's authorized review of a decision by a board of adjustment, and prohibits judicial review in provisions related to a board of adjustment.

#### *Effect of Proposed Changes*

**Section 12** amends s. 333.11, F.S., to allow any person, political subdivision, or joint airport zoning board affected by a decision of a political subdivision or its administrative agency to apply for judicial relief and to remove references to the board of adjustment, but otherwise leaves the authorization to apply for judicial review in place. The judicial review prohibition is revised. An appellant is required to exhaust all remedies through application for local government permits, exceptions, and appeals before seeking judicial review.

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

### Transition Provisions

**Section 15** of the bill creates s. 333.135, F.S., to:

- Provide that any airport zoning regulation in effect on July 1, 2016, and in conflict with the revised ch. 333, F.S., must be amended to conform by July 1, 2017.
- Require any political subdivision with an airport that has not adopted airport zoning regulations to do so by July 1, 2017, consistent with the revised chapter.
- Require the FDOT to administer the permitting process as provided in s. 333.025, F.S., for political subdivisions that have not yet adopted the required regulations.

### Technical Revisions

**Sections 4, 5, 6, 13, and 14**, amending ss. 333.04, 333.05, 333.06, 333.12, and 333.13, F.S., respectively, primarily make grammatical and editorial revisions to existing language and modify sections of the chapter for internal consistency with definitions.

**Section 16** repeals s. 333.14, F.S., containing the short title of ch. 333, F.S., the “Airport Zoning Law of 1945.”

## 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:

According to the FDOT, property owners near airports and property development businesses should benefit from a more timely, consistent, and predictable land development process. The re-write is intended to save property owners and businesses time and resources, while protecting the airspace and state aviation facilities from encroachment.<sup>10</sup>

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<sup>10</sup> *Supra* note 7.



**C. Government Sector Impact:**

According to the FDOT, by restructuring the local government process away from zoning variances to local permitting, uniformity with state permitting provisions is facilitated and local governments are granted flexibility to implement the bill's provisions consistent with existing local zoning enforcement processes and structures.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 333.01, 333.025, 333.03, 333.04, 333.05, 333.06, 333.07, 333.09, 333.11, 333.12, and 333.13.

This bill creates section 333.135 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 333.065, 333.08, 333.10, and 333.14.

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

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

**CS by Community Affairs on February 16, 2016:**

- Removes the inappropriate use of the word “protection” from the title of s. 333.03, F.S.; and
- Adjusts an improper reference in s. 333.03(1)(b), F.S., for technical accuracy.

**B. Amendments:**

None.

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

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



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LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 02/16/2016 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Community Affairs (Simpson) recommended the following:

**Senate Amendment**

Delete lines 324 - 342

and insert:

333.03 Requirement ~~Power~~ to adopt airport zoning regulations.-

(1) (a) ~~In order to prevent the creation or establishment of airport hazards,~~ Every political subdivision having an airport hazard area within its territorial limits shall, ~~by October 1, 1977,~~ adopt, administer, and enforce, under the police power and



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11 in the manner and upon the conditions ~~hereinafter~~ prescribed in  
12 this section, airport protection zoning regulations for such  
13 airport hazard area.

14 (b) If ~~Where~~ an airport is owned or controlled by a  
15 political subdivision and if any other political subdivision has  
16 land upon which an obstruction may be constructed or altered  
17 which underlies any surface of the airport as provided in 14  
18 C.F.R. part 77, subpart C, the political subdivisions ~~airport~~  
19 ~~hazard area appertaining to such airport is located wholly or~~  
20 ~~partly outside the territorial limits of said political~~  
21 ~~subdivision, the political subdivision owning or controlling the~~  
22 ~~airport and the political subdivision within which the airport~~  
23 ~~hazard area is located,~~ shall either:

By Senator Simpson

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1                   A bill to be entitled  
2           An act relating to airport zoning; amending s. 333.01,  
3           F.S.; defining and redefining terms; amending s.  
4           333.025, F.S.; revising the requirements relating to  
5           permits required for obstructions; requiring certain  
6           existing, planned, and proposed facilities to be  
7           protected from airport hazards; requiring the local  
8           government to provide a copy of a complete permit  
9           application to the Department of Transportation's  
10          aviation office, subject to certain requirements;  
11          requiring the department to have a specified review  
12          period following receipt of such application;  
13          providing exemptions from such review under certain  
14          circumstances; revising the circumstances under which  
15          the department issues or denies a permit; revising the  
16          department's requirements before a permit is issued;  
17          revising the circumstances under which the department  
18          is prohibited from approving a permit; providing that  
19          the denial of a permit is subject to administrative  
20          review; amending s. 333.03, F.S.; conforming  
21          provisions to changes made by the act; revising the  
22          circumstances under which a political subdivision  
23          owning or controlling an airport and another political  
24          subdivision adopt, administer, and enforce airport  
25          protection zoning regulations or create a joint  
26          airport protection zoning board; revising the  
27          provisions relating to airport protection zoning  
28          regulations and joint airport protection zoning  
29          boards; requiring the department to be available to  
30          provide assistance to political subdivisions regarding  
31          federal obstruction standards; deleting provisions  
32          relating to certain duties of the department; revising

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33 provisions relating to airport land use compatibility  
34 zoning regulations; revising construction; providing  
35 applicability; amending s. 333.04, F.S.; authorizing  
36 certain airport zoning regulations to be incorporated  
37 in and made a part of comprehensive plans and  
38 policies, rather than a part of comprehensive zoning  
39 regulations, under certain circumstances; revising  
40 requirements relating to applicability; amending s.  
41 333.05, F.S.; revising procedures for adoption of  
42 airport zoning regulations; amending s. 333.06, F.S.;  
43 revising airport zoning regulation requirements;  
44 repealing s. 333.065, F.S., relating to guidelines  
45 regarding land use near airports; amending s. 333.07,  
46 F.S.; revising requirements relating to local  
47 government permitting of airspace obstructions;  
48 requiring a person proposing to construct, alter, or  
49 allow an airport obstruction to apply for a permit  
50 under certain circumstances; revising the  
51 circumstances under which a permit is prohibited from  
52 being issued; revising the circumstances under which  
53 the owner of a nonconforming structure is required to  
54 alter such structure to conform to the current airport  
55 protection zoning regulations; deleting provisions  
56 relating to variances from zoning regulations;  
57 requiring a political subdivision or its  
58 administrative agency to consider specified criteria  
59 in determining whether to issue or deny a permit;  
60 revising the requirements for marking and lighting in  
61 conformance with certain standards; repealing s.

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62 333.08, F.S., relating to appeals of decisions  
63 concerning airport zoning regulations; amending s.  
64 333.09, F.S.; revising the requirements relating to  
65 the administration of airport protection zoning  
66 regulations; requiring all airport protection zoning  
67 regulations to provide for the administration and  
68 enforcement of such regulations by the political  
69 subdivision or its administrative agency; requiring a  
70 political subdivision adopting airport zoning  
71 regulations to provide a permitting process, subject  
72 to certain requirements; requiring a zoning board or  
73 permitting body to implement the airport zoning  
74 regulation permitting and appeals process if such  
75 board or body already exists within a political  
76 subdivision; authorizing a person, a political  
77 subdivision or its administrative agency, or a  
78 specified joint zoning board to use the process  
79 established for an appeal, subject to certain  
80 requirements; repealing s. 333.10, F.S., relating to  
81 boards of adjustment provided for by airport zoning  
82 regulations; amending s. 333.11, F.S.; revising the  
83 requirements relating to judicial review; amending s.  
84 333.12, F.S.; revising requirements relating to the  
85 acquisition of air rights; amending s. 333.13, F.S.;  
86 conforming provisions to changes made by the act;  
87 creating s. 333.135, F.S.; requiring conflicting  
88 airport zoning regulations in effect on a specified  
89 date to be amended to conform to certain requirements;  
90 requiring certain political subdivisions to adopt

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91 certain airport zoning regulations by a specified  
92 date; requiring the department to administer a  
93 specified permitting process for certain political  
94 subdivisions; repealing s. 333.14, F.S., relating to a  
95 short title; providing an effective date.

96

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

98

99 Section 1. Section 333.01, Florida Statutes, is amended to  
100 read:

101 333.01 Definitions.—As used in ~~For the purpose of~~ this  
102 chapter, the term following words, terms, and phrases shall have  
103 the meanings herein given, unless otherwise specifically  
104 defined, or unless another intention clearly appears, or the  
105 context otherwise requires:

106 (1) "Aeronautical study" means a Federal Aviation  
107 Administration study, conducted in accordance with the standards  
108 of 14 C.F.R. part 77, subpart C, and Federal Aviation  
109 Administration policy and guidance, on the effect of proposed  
110 construction or alteration upon the operation of air navigation  
111 facilities and the safe and efficient use of navigable airspace.

112 ~~(1) "Aeronautics" means transportation by aircraft; the~~  
113 ~~operation, construction, repair, or maintenance of aircraft,~~  
114 ~~aircraft power plants and accessories, including the repair,~~  
115 ~~packing, and maintenance of parachutes; the design,~~  
116 ~~establishment, construction, extension, operation, improvement,~~  
117 ~~repair, or maintenance of airports, restricted landing areas, or~~  
118 ~~other air navigation facilities, and air instruction.~~

119 (2) "Airport" means any area of land or water designed and

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120 set aside for the landing and taking off of aircraft and used  
121 ~~utilized~~ or to be used ~~utilized~~ in the interest of the public  
122 for such purpose.

123 (3) "Airport hazard" means an obstruction to air navigation  
124 which affects the safe and efficient use of navigable airspace  
125 or the operation of planned or existing air navigation and  
126 communication facilities ~~any structure or tree or use of land~~  
127 ~~which would exceed the federal obstruction standards as~~  
128 ~~contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29~~  
129 ~~and which obstructs the airspace required for the flight of~~  
130 ~~aircraft in taking off, maneuvering, or landing or is otherwise~~  
131 ~~hazardous to such taking off, maneuvering, or landing of~~  
132 ~~aircraft and for which no person has previously obtained a~~  
133 ~~permit or variance pursuant to s. 333.025 or s. 333.07.~~

134 (4) "Airport hazard area" means any area of land or water  
135 upon which an airport hazard might be established ~~if not~~  
136 ~~prevented as provided in this chapter.~~

137 (5) "Airport land use compatibility zoning" means airport  
138 zoning regulations governing ~~restricting~~ the use of land on,  
139 adjacent to, or in the immediate vicinity of airports ~~in the~~  
140 ~~manner enumerated in s. 333.03(2) to activities and purposes~~  
141 ~~compatible with the continuation of normal airport operations~~  
142 ~~including landing and takeoff of aircraft in order to promote~~  
143 ~~public health, safety, and general welfare.~~

144 (6) "Airport layout plan" means a set of scaled drawings  
145 that provide a graphic representation of the existing and future  
146 development plan for the airport and demonstrate the  
147 preservation and continuity of safety, utility, and efficiency  
148 of the airport ~~detailed, scale engineering drawing, including~~



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149 ~~pertinent dimensions, of an airport's current and planned~~  
150 ~~facilities, their locations, and runway usage.~~

151 (7) "Airport master plan" means a comprehensive plan of an  
152 airport which typically describes current and future plans for  
153 airport development designed to support existing and future  
154 aviation demand.

155 (8) "Airport protection zoning regulations" means airport  
156 zoning regulations governing airport hazards.

157 (9) "Department" means the Department of Transportation as  
158 created under s. 20.23.

159 (10) "Educational facility" means any structure, land, or  
160 use that includes a public or private kindergarten through 12th  
161 grade school, charter school, magnet school, college campus, or  
162 university campus. The term does not include space used for  
163 educational purposes within a multi-tenant building.

164 (11) "Landfill" has the same meaning as provided in s.  
165 403.703.

166 (12) ~~(7)~~ "Obstruction" means any existing or proposed  
167 ~~manmade object or object, of natural growth or terrain, or~~  
168 ~~structure construction or alteration~~ that exceeds ~~violates~~ the  
169 ~~federal obstruction~~ standards contained in 14 C.F.R. part 77,  
170 ~~subpart C ss. 77.21, 77.23, 77.25, 77.28, and 77.29.~~ The term  
171 includes:

172 (a) Any object of natural growth or terrain;

173 (b) Permanent or temporary construction or alteration,  
174 including equipment or materials used and any permanent or  
175 temporary apparatus; or

176 (c) Alteration of any permanent or temporary existing  
177 structure by a change in the structure's height, including

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178 appurtenances, lateral dimensions, and equipment or materials  
179 used in the structure.

180 (13)-(8) "Person" means any individual, firm, copartnership,  
181 corporation, company, association, joint-stock association, or  
182 body politic, and includes any trustee, receiver, assignee, or  
183 other similar representative thereof.

184 (14)-(9) "Political subdivision" means the local government  
185 of any county, municipality city, town, village, or other  
186 subdivision or agency thereof, or any district or special  
187 district, port commission, port authority, or other such agency  
188 authorized to establish or operate airports in the state.

189 (15) "Public-use airport" means an airport, publicly or  
190 privately owned, licensed by the state, which is open for use by  
191 the public.

192 (16)-(10) "Runway protection clear zone" means an area at  
193 ground level beyond the runway end to enhance the safety and  
194 protection of people and property on the ground a ~~runway clear~~  
195 zone as defined in 14 C.F.R. s. 151.9(b).

196 (17)-(11) "Structure" means any object, ~~constructed,~~  
197 erected, altered, or installed ~~by humans,~~ including, but not  
198 limited to without limitation thereof, buildings, towers,  
199 smokestacks, utility poles, power generation equipment, and  
200 overhead transmission lines.

201 (18) "Substantial modification" means any repair,  
202 reconstruction, rehabilitation, or improvement of a structure  
203 when the actual cost of the repair, reconstruction,  
204 rehabilitation, or improvement of the structure equals or  
205 exceeds 50 percent of the market value of the structure.

206 ~~(12) "Tree" includes any plant of the vegetable kingdom.~~

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207 Section 2. Section 333.025, Florida Statutes, is amended to  
208 read:

209 333.025 Permit required for obstructions ~~structures~~  
210 ~~exceeding federal obstruction standards.~~

211 (1) A person proposing the construction or alteration ~~In~~  
212 ~~order to prevent the erection of an obstruction must obtain a~~  
213 permit from the department ~~structures dangerous to air~~  
214 ~~navigation, subject to the provisions of subsections (2), (3),~~  
215 ~~and (4), each person shall secure from the Department of~~  
216 ~~Transportation a permit for the erection, alteration, or~~  
217 ~~modification of any structure the result of which would exceed~~  
218 ~~the federal obstruction standards as contained in 14 C.F.R. ss.~~  
219 ~~77.21, 77.23, 77.25, 77.28, and 77.29. However, permits from the~~  
220 ~~department of Transportation will be required only within an~~  
221 ~~airport hazard area where federal~~ obstruction ~~standards are~~  
222 ~~exceeded and if the proposed construction~~ or alteration ~~is~~  
223 ~~within a 10-nautical-mile radius of the~~ airport reference point,  
224 located at the approximate geometric ~~geographical~~ center of all  
225 usable runways of a public-use airport or a publicly owned or  
226 operated airport, a military airport, or an airport licensed by  
227 the state for public use.

228 (2) Existing, planned, and proposed ~~Affected airports will~~  
229 ~~be considered as having these facilities~~ on public-use airports  
230 contained in an ~~which are shown on the~~ airport master plan, in  
231 ~~or an airport layout plan submitted to the Federal Aviation~~  
232 ~~Administration, Airport District Office or in~~ comparable  
233 military documents shall, and will be so protected from airport  
234 hazards. Planned or proposed public-use airports which are the  
235 subject of a notice or proposal submitted to the Federal

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236 ~~Aviation Administration or to the Department of Transportation~~  
237 ~~shall also be protected.~~

238 (3) A permit is not required for existing structures that  
239 ~~requirements of subsection (1) shall not apply to projects which~~  
240 received construction permits from the Federal Communications  
241 Commission for structures exceeding federal obstruction  
242 standards before ~~prior to~~ May 20, 1975, ~~provided such structures~~  
243 ~~now exist; a permit is not required for nor shall it apply to~~  
244 ~~previously approved structures now existing, or any necessary~~  
245 replacement or repairs to such existing structures if, so long  
246 ~~as~~ the height and location are ~~is~~ unchanged.

247 (4) If ~~When~~ political subdivisions have, in compliance with  
248 this chapter, adopted adequate airport airspace protection  
249 zoning regulations, placed in compliance with s. 333.03, and  
250 such regulations ~~are~~ on file with the department's aviation  
251 office, and established a permitting process ~~Department of~~  
252 ~~Transportation,~~ a permit for the construction or alteration of  
253 an obstruction is such structure shall not be required from the  
254 ~~department of Transportation.~~ Upon receipt of a complete permit  
255 application, the local government shall provide a copy of the  
256 application to the department's aviation office by certified  
257 mail, return receipt requested, or by a delivery service that  
258 provides a receipt evidencing delivery. To evaluate technical  
259 consistency with this subsection, the department shall have a  
260 15-day review period following receipt of the application, which  
261 must run concurrently with the local government permitting  
262 process. Cranes, construction equipment, and other temporary  
263 structures in use or in place for a period not to exceed 18  
264 consecutive months are exempt from the department's review,

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265 unless such review is requested by the department.

266 (5) The department ~~of Transportation~~ shall, within 30 days  
267 after ~~of the~~ receipt of an application for a permit, issue or  
268 deny a permit for the construction or erection, alteration, ~~or~~  
269 ~~modification of an obstruction any structure the result of which~~  
270 ~~would exceed federal obstruction standards as contained in 14~~  
271 ~~C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29.~~ The department  
272 shall review permit applications in conformity with s. 120.60.

273 (6) In determining whether to issue or deny a permit, the  
274 department shall consider:

275 (a) The safety of persons on the ground and in the air.

276 (b) The safe and efficient use of navigable airspace.

277 (c) ~~(a)~~ The nature of the terrain and height of existing  
278 structures.

279 ~~(b) Public and private interests and investments.~~

280 (d) The effect of the construction or alteration of an  
281 obstruction on the state licensing standards for a public-use  
282 airport contained in chapter 330 and rules adopted thereunder.

283 (e) ~~(e)~~ The character of existing and planned flight flying  
284 operations and planned developments at public-use ~~of~~ airports.

285 (f) ~~(d)~~ Federal airways, visual flight rules, flyways and  
286 corridors, and instrument approaches as designated by the  
287 Federal Aviation Administration.

288 (g) ~~(e)~~ The effect of whether the construction or alteration  
289 of an obstruction on the proposed structure would cause an  
290 increase in the minimum descent altitude or the decision height  
291 at the affected airport.

292 ~~(f) Technological advances.~~

293 ~~(g) The safety of persons on the ground and in the air.~~

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294 ~~(h) Land use density.~~  
 295 ~~(i) The safe and efficient use of navigable airspace.~~  
 296 (h)(j) The cumulative effects on navigable airspace of all  
 297 existing obstructions structures, ~~proposed structures identified~~  
 298 ~~in the applicable jurisdictions' comprehensive plans~~, and all  
 299 ~~other~~ known proposed obstructions structures in the area.

300 (7) When issuing a permit under this section, the  
 301 department ~~of Transportation~~ shall, ~~as a specific condition of~~  
 302 ~~such permit~~, require the owner obstruction marking and lighting  
 303 of the obstruction to install, operate, and maintain, at the  
 304 owner's expense, marking and lighting in conformance with the  
 305 specific standards established by the Federal Aviation  
 306 Administration permitted structure as provided in s.  
 307 333.07(3)(b).

308 (8) The department may ~~of Transportation~~ shall not approve  
 309 a permit for the construction or alteration ~~erection~~ of an  
 310 obstruction a structure unless the applicant submits ~~both~~  
 311 documentation showing both compliance with the federal  
 312 requirement for notification of proposed construction or  
 313 alteration and a valid aeronautical study. ~~A evaluation, and no~~  
 314 permit may not ~~shall~~ be approved solely on the basis that the  
 315 Federal Aviation Administration determined that the such  
 316 proposed construction or alteration of an obstruction was not an  
 317 airport hazard structure will not exceed federal obstruction  
 318 standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,  
 319 77.28, or 77.29, or any other federal aviation regulation.

320 (9) The denial of a permit under this section is subject to  
 321 administrative review pursuant to chapter 120.

322 Section 3. Section 333.03, Florida Statutes, is amended to

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323 read:

324 333.03 Requirement ~~Power~~ to adopt airport protection zoning  
325 regulations.-326 (1) (a) ~~In order to prevent the creation or establishment of~~  
327 ~~airport hazards,~~ Every political subdivision having an airport  
328 hazard area within its territorial limits shall, ~~by October 1,~~  
329 ~~1977,~~ adopt, administer, and enforce, under the police power and  
330 in the manner and upon the conditions ~~hereinafter~~ hereinafter prescribed in  
331 this section, airport protection zoning regulations for such  
332 airport hazard area.333 (b) If ~~where~~ an airport is owned or controlled by a  
334 political subdivision and any other political subdivision has  
335 land underlying any of the surfaces of the airport and upon  
336 which an obstruction may be constructed or altered under 14  
337 C.F.R. part 77, subpart C, the political subdivisions airport  
338 ~~hazard area appertaining to such airport is located wholly or~~  
339 ~~partly outside the territorial limits of said political~~  
340 ~~subdivision, the political subdivision owning or controlling the~~  
341 ~~airport and the political subdivision within which the airport~~  
342 ~~hazard area is located,~~ shall either:343 1. By interlocal agreement, ~~in accordance with the~~  
344 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set  
345 of airport protection zoning regulations ~~applicable to the~~  
346 ~~airport hazard area in question; or~~347 2. By ordinance, regulation, or resolution duly adopted,  
348 create a joint airport protection zoning board that, ~~which board~~  
349 ~~shall have the same power to~~ adopt, administer, and enforce a  
350 set of airport protection zoning regulations ~~applicable to the~~  
351 ~~airport hazard area in question as that vested in paragraph (a)~~

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352 ~~in the political subdivision within which such area is located.~~  
353 The ~~Each such~~ joint airport protection zoning board shall have  
354 as voting members two representatives appointed by each  
355 participating political subdivision ~~participating in its~~  
356 ~~creation~~ and ~~in addition~~ a chair elected by a majority of the  
357 members so appointed. ~~However,~~ The airport manager or a  
358 representative of each airport in ~~managers of~~ the affected  
359 participating political subdivisions shall serve on the board in  
360 a nonvoting capacity.

361 (c) Airport protection zoning regulations adopted under  
362 paragraph (a) must ~~shall~~, at ~~as~~ a minimum, require:

363 1. A permit variance for the construction or ~~erection,~~  
364 ~~alteration, or modification~~ of any obstruction ~~structure~~ which  
365 ~~would cause the structure to exceed the federal obstruction~~  
366 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~  
367 ~~77.28, and 77.29;~~

368 2. Obstruction marking and lighting for obstructions  
369 ~~structures as specified in s. 333.07(3);~~

370 3. Documentation showing compliance with the federal  
371 requirement for notification of proposed construction or  
372 alteration of structures and a valid aeronautical study  
373 ~~evaluation~~ submitted by each person applying for a permit  
374 ~~variance;~~

375 4. Consideration of the criteria in s. 333.025(6), when  
376 determining whether to issue or deny a permit variance; and

377 5. That approval of a permit not be based ~~no variance shall~~  
378 ~~be approved~~ solely on the determination by the Federal Aviation  
379 Administration ~~basis~~ that the ~~such~~ proposed structure is not an  
380 airport hazard ~~will not exceed federal obstruction standards as~~



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381 ~~contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29,~~  
382 ~~or any other federal aviation regulation.~~

383 (d) The department shall be available to provide assistance  
384 to political subdivisions regarding federal obstruction  
385 standards shall issue copies of the federal obstruction  
386 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~  
387 ~~77.28, and 77.29 to each political subdivision having airport~~  
388 ~~hazard areas and, in cooperation with political subdivisions,~~  
389 ~~shall issue appropriate airport zoning maps depicting within~~  
390 ~~each county the maximum allowable height of any structure or~~  
391 ~~tree. Material distributed pursuant to this subsection shall be~~  
392 ~~at no cost to authorized recipients.~~

393 (2) In the manner provided in subsection (1), political  
394 subdivisions shall adopt, administer, and enforce interim  
395 airport land use compatibility zoning regulations shall be  
396 ~~adopted. Airport land use compatibility zoning~~ When political  
397 ~~subdivisions have adopted land development regulations shall, at~~  
398 a minimum, in accordance with the provisions of chapter 163  
399 ~~which address the use of land in the manner consistent with the~~  
400 ~~provisions herein, adoption of airport land use compatibility~~  
401 ~~regulations pursuant to this subsection shall not be required.~~  
402 ~~Interim airport land use compatibility zoning regulations shall~~  
403 ~~consider the following:~~

404 (a) The prohibition of new landfills and the restriction of  
405 existing landfills ~~Whether sanitary landfills are located within~~  
406 ~~the following areas:~~

407 1. Within 10,000 feet from the nearest point of any runway  
408 used or planned to be used by turbine turbojet or turboprop  
409 ~~aircraft.~~

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410           2. Within 5,000 feet from the nearest point of any runway  
411 used ~~only~~ by only nonturbine piston-type aircraft.

412           3. Outside the perimeters defined in subparagraphs 1. and  
413 2., but still within the lateral limits of the civil airport  
414 imaginary surfaces defined in 14 C.F.R. s. 77.19 ~~part 77.25~~.  
415 Case-by-case review of such landfills is advised.

416           (b) Where ~~Whether~~ any landfill is located and constructed  
417 in a manner ~~so~~ that ~~it~~ attracts or sustains hazardous bird  
418 movements from feeding, water, or roosting areas into, or  
419 across, the runways or approach and departure patterns of  
420 aircraft. The landfill operator must ~~political subdivision shall~~  
421 ~~request from the airport authority or other governing body~~  
422 ~~operating the airport a report on such bird feeding or roosting~~  
423 ~~areas that at the time of the request are known to the airport.~~  
424 ~~In preparing its report, the authority, or other governing body,~~  
425 ~~shall consider whether the landfill will~~ incorporate bird  
426 management techniques or other practices to minimize bird  
427 hazards to airborne aircraft. ~~The airport authority or other~~  
428 ~~governing body shall respond to the political subdivision no~~  
429 ~~later than 30 days after receipt of such request.~~

430           (c) Where an airport authority or other governing body  
431 operating a ~~publicly owned,~~ public-use airport has conducted a  
432 noise study in accordance with ~~the provisions of~~ 14 C.F.R. part  
433 150, or where a public-use airport owner has established noise  
434 contours pursuant to another public study approved by the  
435 Federal Aviation Administration, the prohibition of incompatible  
436 uses, as established in the noise study in 14 C.F.R. part 150,  
437 Appendix A or as a part of an alternative Federal Aviation  
438 Administration-approved public study, within the noise contours

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439 established by any of these studies, except if such uses are  
440 specifically contemplated by such study with appropriate  
441 mitigation or similar techniques described in the study ~~neither~~  
442 ~~residential construction nor any educational facility as defined~~  
443 ~~in chapter 1013, with the exception of aviation school~~  
444 ~~facilities, shall be permitted within the area contiguous to the~~  
445 ~~airport defined by an outer noise contour that is considered~~  
446 ~~incompatible with that type of construction by 14 C.F.R. part~~  
447 ~~150, Appendix A or an equivalent noise level as established by~~  
448 ~~other types of noise studies.~~

449 (d) Where an airport authority or other governing body  
450 operating a ~~publicly owned,~~ public-use airport has not conducted  
451 a noise study, the prohibition of ~~neither~~ residential  
452 construction and ~~nor~~ any educational facility ~~as defined in~~  
453 ~~chapter 1013, with the exception of aviation school facilities,~~  
454 ~~shall be permitted~~ within an area contiguous to the airport  
455 measuring one-half the length of the longest runway on either  
456 side of and at the end of each runway centerline.

457 (e) (3) The restriction of ~~In the manner provided in~~  
458 ~~subsection (1), airport zoning regulations shall be adopted~~  
459 ~~which restrict~~ new incompatible uses, activities, or substantial  
460 modifications to existing incompatible uses ~~construction~~ within  
461 runway protection clear zones, ~~including uses, activities, or~~  
462 ~~construction in runway clear zones which are incompatible with~~  
463 ~~normal airport operations or endanger public health, safety, and~~  
464 ~~welfare by resulting in congregations of people, emissions of~~  
465 ~~light or smoke, or attraction of birds. Such regulations shall~~  
466 ~~prohibit the construction of an educational facility of a public~~  
467 ~~or private school at either end of a runway of a publicly owned,~~

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468 ~~public use airport within an area which extends 5 miles in a~~  
469 ~~direct line along the centerline of the runway, and which has a~~  
470 ~~width measuring one-half the length of the runway. Exceptions~~  
471 ~~approving construction of an educational facility within the~~  
472 ~~delineated area shall only be granted when the political~~  
473 ~~subdivision administering the zoning regulations makes specific~~  
474 ~~findings detailing how the public policy reasons for allowing~~  
475 ~~the construction outweigh health and safety concerns prohibiting~~  
476 ~~such a location.~~

477 ~~(4) The procedures outlined in subsections (1), (2), and~~  
478 ~~(3) for the adoption of such regulations are supplemental to any~~  
479 ~~existing procedures utilized by political subdivisions in the~~  
480 ~~adoption of such regulations.~~

481 ~~(3)(5) Political subdivisions shall provide The Department~~  
482 ~~of Transportation shall provide technical assistance to any~~  
483 ~~political subdivision requesting assistance in the preparation~~  
484 ~~of an airport zoning code. a copy of all local airport~~  
485 ~~protection zoning codes, rules, and regulations and airport land~~  
486 ~~use compatibility zoning regulations, and any related amendments~~  
487 ~~and proposed and granted variances thereto, to shall be filed~~  
488 ~~with the department's aviation office within 30 days after~~  
489 ~~adoption department.~~

490 ~~(4)(6) Nothing in Subsection (2) may not or subsection (3)~~  
491 ~~shall be construed to require the removal, alteration, sound~~  
492 ~~conditioning, or other change, or to interfere with the~~  
493 ~~continued use or adjacent expansion of any educational facility~~  
494 ~~structure or site in existence on July 1, 1993, or be construed~~  
495 ~~to prohibit the construction of any new structure for which a~~  
496 ~~site has been determined as provided in former s. 235.19, as of~~

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497 ~~July 1, 1993.~~

498 (5) This section does not prohibit an airport authority, a  
499 political subdivision or its administrative agency, or any other  
500 governing body operating a public-use airport from establishing  
501 airport zoning regulations more restrictive than prescribed in  
502 this section in order to protect the health, safety, and welfare  
503 of the public in the air and on the ground.

504 Section 4. Section 333.04, Florida Statutes, is amended to  
505 read:

506 333.04 Comprehensive zoning regulations; most stringent to  
507 prevail where conflicts occur.-

508 (1) INCORPORATION.-In the event that a political  
509 subdivision has adopted, or hereafter adopts, a comprehensive  
510 plan or policy ~~zoning ordinance~~ regulating, among other things,  
511 the height of buildings, structures, and natural objects, and  
512 uses of property, any airport zoning regulations applicable to  
513 the same area or portion thereof may be incorporated in and made  
514 a part of such comprehensive plan or policy ~~zoning regulations~~,  
515 and be administered and enforced in connection therewith.

516 (2) CONFLICT.-In the event of conflict between any airport  
517 zoning regulations adopted under this chapter and any other  
518 regulations applicable to the same area, whether the conflict be  
519 with respect to the height of structures or vegetation ~~trees~~,  
520 the use of land, or any other matter, and whether such  
521 regulations were adopted by the political subdivision that ~~which~~  
522 adopted the airport zoning regulations or by some other  
523 political subdivision, the more stringent limitation or  
524 requirement shall govern and prevail.

525 Section 5. Section 333.05, Florida Statutes, is amended to

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526 read:

527 333.05 Procedure for adoption of airport zoning  
528 regulations.-

529 (1) NOTICE AND HEARING.-~~No~~ Airport zoning regulations may  
530 not shall be adopted, amended, or repealed ~~changed~~ under this  
531 chapter except by action of the legislative body of the  
532 political subdivision or affected subdivisions ~~in question~~, or  
533 the joint board provided in s. 333.03(1)(b)2. ~~s. 333.03(1)(b)~~ by  
534 the political subdivisions ~~bodies~~ therein provided and set  
535 forth, after a public hearing in relation thereto, at which  
536 parties in interest and citizens shall have an opportunity to be  
537 heard. Notice of the hearing shall be published at least once a  
538 week for 2 consecutive weeks in a newspaper ~~an official paper,~~  
539 ~~or a paper~~ of general circulation, in the political subdivision  
540 or subdivisions where ~~in which~~ are located the airport zoning  
541 regulations are ~~areas~~ to be adopted, amended, or repealed ~~zoned~~.

542 (2) AIRPORT ZONING COMMISSION.-Before ~~Prior to~~ the initial  
543 zoning of any airport area under this chapter, the political  
544 subdivision or joint airport zoning board that ~~which~~ is to  
545 adopt, administer, and enforce the regulations must ~~shall~~  
546 appoint a commission, to be known as the airport zoning  
547 commission, to recommend the boundaries of the various zones to  
548 be established and the regulations to be adopted therefor. Such  
549 commission shall make a preliminary report and hold public  
550 hearings thereon before submitting its final report, and the  
551 legislative body of the political subdivision or the joint  
552 airport zoning board may ~~shall~~ not hold its public hearings or  
553 take any action until it has received the final report of such  
554 commission, and at least 15 days shall elapse between the

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555 receipt of the final report of the commission and the hearing to  
556 be held by the latter board. ~~If Where~~ a planning city plan  
557 commission, an airport commission, or a comprehensive zoning  
558 commission already exists, it may be appointed as the airport  
559 zoning commission.

560 Section 6. Section 333.06, Florida Statutes, is amended to  
561 read:

562 333.06 Airport zoning regulation requirements.—

563 (1) REASONABLENESS.—All airport zoning regulations adopted  
564 under this chapter shall be reasonable and may not ~~none shall~~  
565 impose any requirement or restriction which is not reasonably  
566 necessary to effectuate the purposes of this chapter. In  
567 determining what regulations it may adopt, each political  
568 subdivision and joint airport zoning board shall consider, among  
569 other things, the character of the flying operations expected to  
570 be conducted at the airport, the nature of the terrain within  
571 the airport hazard area and runway protection ~~clear~~ zones, the  
572 character of the neighborhood, the uses to which the property to  
573 be zoned is put and adaptable, and the impact of any new use,  
574 activity, or construction on the airport's operating capability  
575 and capacity.

576 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport  
577 zoning regulations adopted under this chapter is to provide both  
578 airspace protection and land uses ~~use~~ compatible with airport  
579 operations. Each aspect of this purpose requires independent  
580 justification in order to promote the public interest in safety,  
581 health, and general welfare. Specifically, construction in a  
582 runway protection ~~clear~~ zone which does not exceed airspace  
583 height restrictions is not conclusive ~~evidence per se~~ that such

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584 use, activity, or construction is compatible with airport  
585 operations.

586 (3) NONCONFORMING USES.—An ~~Ne~~ airport protection zoning  
587 regulation ~~regulations~~ adopted under this chapter may not shall  
588 require the removal, lowering, or other change or alteration of  
589 any obstruction ~~structure or tree~~ not conforming to the  
590 regulation ~~regulations~~ when adopted or amended, or otherwise  
591 interfere with the continuance of any nonconforming use, except  
592 as provided in s. 333.07(1) and (3).

593 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED  
594 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by  
595 each public-use ~~publicly owned and operated~~ airport licensed by  
596 the department of ~~Transportation~~ under chapter 330. The  
597 authorized entity having responsibility for governing the  
598 operation of the airport, when either requesting from or  
599 submitting to a state or federal governmental agency with  
600 funding or approval jurisdiction a “finding of no significant  
601 impact,” an environmental assessment, a site-selection study, an  
602 airport master plan, or any amendment to an airport master plan,  
603 shall submit simultaneously a copy of said request, submittal,  
604 assessment, study, plan, or amendments by certified mail to all  
605 affected local governments. As used in ~~For the purposes of~~ this  
606 subsection, the term “affected local government” is defined as  
607 any municipality ~~city~~ or county having jurisdiction over the  
608 airport and any municipality ~~city~~ or county located within 2  
609 miles of the boundaries of the land subject to the airport  
610 master plan.

611 Section 7. Section 333.065, Florida Statutes, is repealed.

612 Section 8. Section 333.07, Florida Statutes, is amended to



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613 read:

614 333.07 Local government permitting of airspace obstructions  
615 ~~Permits and variances.-~~

616 (1) PERMITS.-

617 (a) A person proposing to construct, alter, or allow an  
618 airport obstruction in an airport hazard area in violation of  
619 the airport protection zoning regulations adopted under this  
620 chapter must apply for a permit. A ~~Any airport zoning~~  
621 ~~regulations adopted under this chapter may require that a permit~~  
622 ~~be obtained before any new structure or use may be constructed~~  
623 ~~or established and before any existing use or structure may be~~  
624 ~~substantially changed or substantially altered or repaired. In~~  
625 ~~any event, however, all such regulations shall provide that~~  
626 ~~before any nonconforming structure or tree may be replaced,~~  
627 ~~substantially altered or repaired, rebuilt, allowed to grow~~  
628 ~~higher, or replanted, a permit must be secured from the~~  
629 ~~administrative agency authorized to administer and enforce the~~  
630 ~~regulations, authorizing such replacement, change, or repair. No~~  
631 ~~permit~~ may not shall be issued if it granted that would allow  
632 the establishment or creation of an airport hazard or if it  
633 would permit a nonconforming obstruction ~~structure or tree or~~  
634 ~~nonconforming use to be made or become higher or to become a~~  
635 greater hazard to air navigation than it was when the applicable  
636 airport protection zoning regulation was adopted which allowed  
637 the establishment or creation of the obstruction, or than it is  
638 when the application for a permit is made.

639 (b) If ~~Whenever~~ the political subdivision or its  
640 administrative agency determines that a nonconforming  
641 obstruction ~~use or nonconforming structure or tree~~ has been

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642 abandoned or is more than 80 percent torn down, destroyed,  
643 deteriorated, or decayed, a no permit may not shall be granted  
644 if it that would allow the obstruction ~~said structure or tree~~ to  
645 exceed the applicable height limit or otherwise deviate from the  
646 airport protection zoning regulations. ~~and,~~ Whether or not an  
647 application is made for a permit under this subsection ~~or not,~~  
648 ~~the said agency may by appropriate action, compel~~ the owner of  
649 the nonconforming obstruction may be required ~~structure or tree,~~  
650 at his or her own expense, to lower, remove, reconstruct, alter,  
651 or equip such obstruction ~~object~~ as may be necessary to conform  
652 to the current airport protection zoning regulations. If the  
653 owner of the nonconforming obstruction neglects or refuses  
654 ~~structure or tree shall neglect or refuse~~ to comply with such  
655 requirement ~~order~~ for 10 days after notice ~~thereof,~~ the  
656 administrative ~~said~~ agency may report the violation to the  
657 political subdivision involved ~~therein,~~ which subdivision,  
658 through its appropriate agency, may proceed to have the  
659 obstruction ~~object~~ so lowered, removed, reconstructed, altered,  
660 or equipped, ~~and assess the cost and expense thereof upon the~~  
661 owner of the obstruction ~~object~~ or the land whereon it is or was  
662 located, ~~and, unless such an assessment is paid within 90 days~~  
663 ~~from the service of notice thereof on the owner or the owner's~~  
664 ~~agent, of such object or land, the sum shall be a lien on said~~  
665 ~~land, and shall bear interest thereafter at the rate of 6~~  
666 ~~percent per annum until paid, and shall be collected in the same~~  
667 ~~manner as taxes on real property are collected by said political~~  
668 ~~subdivision, or, at the option of said political subdivision,~~  
669 ~~said lien may be enforced in the manner provided for enforcement~~  
670 ~~of liens by chapter 85.~~

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671 ~~(c) Except as provided herein, applications for permits~~  
672 ~~shall be granted, provided the matter applied for meets the~~  
673 ~~provisions of this chapter and the regulations adopted and in~~  
674 ~~force hereunder.~~

675 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.—In  
676 determining whether to issue or deny a permit, the political  
677 subdivision or its administrative agency must consider the  
678 following, as applicable:

679 (a) The safety of persons on the ground and in the air.

680 (b) The safe and efficient use of navigable airspace.

681 (c) The nature of the terrain and height of existing  
682 structures.

683 (d) The effect of the construction or alteration on the  
684 state licensing standards for a public-use airport contained in  
685 chapter 330 and rules adopted thereunder.

686 (e) The character of existing and planned flight operations  
687 and developments at public-use airports.

688 (f) Federal airways, visual flight rules, flyways and  
689 corridors, and instrument approaches as designated by the  
690 Federal Aviation Administration.

691 (g) The effect of the construction or alteration of the  
692 proposed structure on the minimum descent altitude or the  
693 decision height at the affected airport.

694 (h) The cumulative effects on navigable airspace of all  
695 existing structures and all other known proposed structures in  
696 the area.

697 (i) Additional requirements adopted by the political  
698 subdivision or administrative agency pertinent to evaluation and  
699 protection of airspace and airport operations.

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700       ~~(2) VARIANCES.—~~

701       ~~(a) Any person desiring to erect any structure, increase~~  
702 ~~the height of any structure, permit the growth of any tree, or~~  
703 ~~otherwise use his or her property in violation of the airport~~  
704 ~~zoning regulations adopted under this chapter or any land~~  
705 ~~development regulation adopted pursuant to the provisions of~~  
706 ~~chapter 163 pertaining to airport land use compatibility, may~~  
707 ~~apply to the board of adjustment for a variance from the zoning~~  
708 ~~regulations in question. At the time of filing the application,~~  
709 ~~the applicant shall forward to the department by certified mail,~~  
710 ~~return receipt requested, a copy of the application. The~~  
711 ~~department shall have 45 days from receipt of the application to~~  
712 ~~comment and to provide its comments or waiver of that right to~~  
713 ~~the applicant and the board of adjustment. The department shall~~  
714 ~~include its explanation for any objections stated in its~~  
715 ~~comments. If the department fails to provide its comments within~~  
716 ~~45 days of receipt of the application, its right to comment is~~  
717 ~~waived. The board of adjustment may proceed with its~~  
718 ~~consideration of the application only upon the receipt of the~~  
719 ~~department's comments or waiver of that right as demonstrated by~~  
720 ~~the filing of a copy of the return receipt with the board.~~  
721 ~~Noncompliance with this section shall be grounds to appeal~~  
722 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~  
723 ~~to s. 333.11. Such variances may only be allowed where a literal~~  
724 ~~application or enforcement of the regulations would result in~~  
725 ~~practical difficulty or unnecessary hardship and where the~~  
726 ~~relief granted would not be contrary to the public interest but~~  
727 ~~would do substantial justice and be in accordance with the~~  
728 ~~spirit of the regulations and this chapter. However, any~~

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729 ~~variance may be allowed subject to any reasonable conditions~~  
730 ~~that the board of adjustment may deem necessary to effectuate~~  
731 ~~the purposes of this chapter.~~

732 ~~(b) The Department of Transportation shall have the~~  
733 ~~authority to appeal any variance granted under this chapter~~  
734 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~  
735 ~~to s. 333.11.~~

736 (3) OBSTRUCTION MARKING AND LIGHTING.-

737 ~~(a) In issuing a granting any permit or variance under this~~  
738 ~~section, the political subdivision or its administrative agency~~  
739 ~~or board of adjustment shall require the owner of the~~  
740 ~~obstruction structure or tree in question to install, operate,~~  
741 ~~and maintain thereon, at his or her own expense, ~~such~~ marking~~  
742 ~~and lighting in conformance with the specific standards~~  
743 ~~established by the Federal Aviation Administration as may be~~  
744 ~~necessary to indicate to aircraft pilots the presence of an~~  
745 ~~obstruction.~~

746 ~~(b) Such marking and lighting shall conform to the specific~~  
747 ~~standards established by rule by the Department of~~  
748 ~~Transportation.~~

749 ~~(c) Existing structures not in compliance on October 1,~~  
750 ~~1988, shall be required to comply whenever the existing marking~~  
751 ~~requires refurbishment, whenever the existing lighting requires~~  
752 ~~replacement, or within 5 years of October 1, 1988, whichever~~  
753 ~~occurs first.~~

754 Section 9. Section 333.08, Florida Statutes, is repealed.

755 Section 10. Section 333.09, Florida Statutes, is amended to  
756 read:

757 333.09 Administration of airport protection zoning

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758 regulations.-

759 (1) ADMINISTRATION.-All airport protection zoning  
760 regulations adopted under this chapter shall provide for the  
761 administration and enforcement of such regulations by the  
762 political subdivision or its administrative agency ~~an~~  
763 ~~administrative agency which may be an agency created by such~~  
764 ~~regulations or any official, board, or other existing agency of~~  
765 ~~the political subdivision adopting the regulations or of one of~~  
766 ~~the political subdivisions which participated in the creation of~~  
767 ~~the joint airport zoning board adopting the regulations, if~~  
768 ~~satisfactory to that political subdivision, but in no case shall~~  
769 ~~such administrative agency be or include any member of the board~~  
770 ~~of adjustment. The duties of any administrative agency~~  
771 ~~designated pursuant to this chapter~~ must ~~shall~~ include that of  
772 hearing and deciding all permits under s. 333.07 ~~s. 333.07(1),~~  
773 ~~deciding all matters under s. 333.07(3),~~ as they pertain to such  
774 agency, and all other matters under this chapter applying to  
775 said agency, ~~but such agency shall not have or exercise any of~~  
776 ~~the powers herein delegated to the board of adjustment.~~

777 (2) LOCAL GOVERNMENT PROCESS.-

778 (a) A political subdivision required to adopt airport  
779 zoning regulations under this chapter shall provide a process  
780 to:

781 1. Issue or deny permits consistent with s. 333.07.

782 2. Provide the department with a copy of a complete  
783 application consistent with s. 333.025(4).

784 3. Enforce the issuance or denial of a permit or other  
785 determination made by the administrative agency with respect to  
786 airport zoning regulations.

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787 (b) If a zoning board or permitting body already exists  
788 within a political subdivision, the zoning board or permitting  
789 body may implement the airport zoning regulation permitting and  
790 appeals processes.

791 (3) APPEALS.—

792 (a) A person, a political subdivision or its administrative  
793 agency, or a joint airport zoning board that contends a decision  
794 made by a political subdivision or its administrative agency is  
795 an improper application of airport zoning regulations may use  
796 the process established for an appeal.

797 (b) All appeals taken under this section must be taken  
798 within a reasonable time, as provided by the political  
799 subdivision or its administrative agency, by filing with the  
800 entity from which the appeal is taken a notice of appeal  
801 specifying the grounds for appeal.

802 (c) An appeal shall stay all proceedings in the underlying  
803 action appealed from, unless the entity from which the appeal is  
804 taken certifies pursuant to the rules for appeal that by reason  
805 of the facts stated in the certificate a stay would, in its  
806 opinion, cause imminent peril to life or property. In such  
807 cases, proceedings may not be stayed except by order of the  
808 political subdivision or its administrative agency on notice to  
809 the entity from which the appeal is taken and for good cause  
810 shown.

811 (d) The political subdivision or its administrative agency  
812 shall set a reasonable time for the hearing of appeals, give  
813 public notice and due notice to the parties in interest, and  
814 decide the same within a reasonable time. Upon the hearing, any  
815 party may appear in person, by agent, or by attorney.

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816 (e) The political subdivision or its administrative agency  
817 may, in conformity with this chapter, affirm, reverse, or modify  
818 the decision on the permit or other determination from which the  
819 appeal is taken.

820 Section 11. Section 333.10, Florida Statutes, is repealed.

821 Section 12. Section 333.11, Florida Statutes, is amended to  
822 read:

823 333.11 Judicial review.—

824 (1) Any person, aggrieved, ~~or taxpayer affected,~~ by any  
825 ~~decision of a board of adjustment, or any governing body of a~~  
826 political subdivision, ~~or the Department of Transportation or~~  
827 ~~any joint airport zoning board~~ affected by a decision of a  
828 political subdivision, ~~or its~~ ~~of any~~ administrative agency  
829 ~~hereunder,~~ may apply for judicial relief to the circuit court in  
830 the judicial circuit where the political subdivision ~~board of~~  
831 ~~adjustment~~ is located within 30 days after rendition of the  
832 decision ~~by the board of adjustment.~~ Review shall be by petition  
833 for writ of certiorari, which shall be governed by the Florida  
834 Rules of Appellate Procedure.

835 ~~(2) Upon presentation of such petition to the court, it may~~  
836 ~~allow a writ of certiorari, directed to the board of adjustment,~~  
837 ~~to review such decision of the board. The allowance of the writ~~  
838 ~~shall not stay the proceedings upon the decision appealed from,~~  
839 ~~but the court may, on application, on notice to the board, on~~  
840 ~~due hearing and due cause shown, grant a restraining order.~~

841 ~~(3) The board of adjustment shall not be required to return~~  
842 ~~the original papers acted upon by it, but it shall be sufficient~~  
843 ~~to return certified or sworn copies thereof or of such portions~~  
844 ~~thereof as may be called for by the writ. The return shall~~



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845 ~~concisely set forth such other facts as may be pertinent and~~  
846 ~~material to show the grounds of the decision appealed from and~~  
847 ~~shall be verified.~~

848 ~~(2)-(4)~~ The court has ~~shall have~~ exclusive jurisdiction to  
849 affirm, reverse, or modify, ~~or set aside~~ the decision on the  
850 permit or other determination from which the appeal is taken  
851 ~~brought up for review, in whole or in part, and, if appropriate~~  
852 ~~need be,~~ to order further proceedings by the political  
853 subdivision or its administrative agency board of adjustment.  
854 The findings of fact by the political subdivision or its  
855 administrative agency board, if supported by substantial  
856 evidence, shall be accepted by the court as conclusive, and an  
857 ~~ne~~ objection to a decision of the political subdivision or its  
858 administrative agency may not board shall be considered by the  
859 court unless such objection was raised in the underlying  
860 proceeding ~~shall have been urged before the board, or, if it was~~  
861 ~~not so urged, unless there were reasonable grounds for failure~~  
862 ~~to do so.~~

863 ~~(3)-(5)~~ If ~~In any case in which~~ airport zoning regulations  
864 adopted under this chapter, ~~although generally reasonable,~~ are  
865 held by a court to interfere with the use and enjoyment of a  
866 particular structure or parcel of land to such an extent, or to  
867 be so onerous in their application to such a structure or parcel  
868 of land, as to constitute a taking or deprivation of that  
869 property in violation of the State Constitution or the  
870 Constitution of the United States, such holding shall not affect  
871 the application of such regulations to other structures and  
872 parcels of land, or such regulations as are not involved in the  
873 particular decision.

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874        ~~(4)(6) A judicial~~ No appeal to any court may not ~~shall~~ be  
 875 ~~or is~~ permitted under this section until the appellant has  
 876 exhausted all of its remedies through application for local  
 877 government permits, exceptions, and appeals, ~~to any courts, as~~  
 878 ~~herein provided, save and except an appeal from a decision of~~  
 879 ~~the board of adjustment, the appeal herein provided being from~~  
 880 ~~such final decision of such board only, the appellant being~~  
 881 ~~hereby required to exhaust his or her remedies hereunder of~~  
 882 ~~application for permits, exceptions and variances, and appeal to~~  
 883 ~~the board of adjustment, and gaining a determination by said~~  
 884 ~~board, before being permitted to appeal to the court hereunder.~~

885        Section 13. Section 333.12, Florida Statutes, is amended to  
 886 read:

887        333.12 Acquisition of air rights. ~~-If In any case which: it~~  
 888 ~~is desired to remove, lower or otherwise terminate a~~  
 889 nonconforming obstruction is determined to be an airport hazard  
 890 and the owner will not remove, lower, or otherwise eliminate it  
 891 ~~structure or use; or~~ the approach protection necessary cannot,  
 892 because of constitutional limitations, be provided by airport  
 893 zoning regulations under this chapter; or it appears advisable  
 894 that the necessary approach protection be provided by  
 895 acquisition of property rights rather than by airport zoning  
 896 regulations, the political subdivision within which the property  
 897 or nonconforming obstruction ~~use~~ is located, or the political  
 898 subdivision owning or operating the airport or being served by  
 899 it, may acquire, by purchase, grant, or condemnation in the  
 900 manner provided by chapter 73, such property, air right,  
 901 avigation ~~navigation~~ easement, or other estate, portion, or  
 902 interest in the property or nonconforming obstruction ~~structure~~

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903 ~~or use~~ or such interest in the air above such property, ~~tree,~~  
904 ~~structure, or use,~~ in question, as may be necessary to  
905 effectuate the purposes of this chapter, and in so doing, if by  
906 condemnation, to have the right to take immediate possession of  
907 the property, interest in property, air right, or other right  
908 sought to be condemned, at the time, and in the manner and form,  
909 and as authorized by chapter 74. In the case of the purchase of  
910 any property, ~~or any~~ easement, or estate or interest therein or  
911 the acquisition of the same by the power of eminent domain, the  
912 political subdivision making such purchase or exercising such  
913 power shall, in addition to the damages for the taking, injury,  
914 or destruction of property, also pay the cost of the removal and  
915 relocation of any structure or any public utility that ~~which~~ is  
916 required to be moved to a new location.

917 Section 14. Section 333.13, Florida Statutes, is amended to  
918 read:

919 333.13 Enforcement and remedies.—

920 (1) Each violation of this chapter or of any airport zoning  
921 regulations, orders, or rulings adopted ~~promulgated~~ or made  
922 pursuant to this chapter shall constitute a misdemeanor of the  
923 second degree, punishable as provided in s. 775.082 or s.  
924 775.083, and each day a violation continues to exist shall  
925 constitute a separate offense.

926 (2) In addition, the political subdivision or agency  
927 adopting the airport zoning regulations under this chapter may  
928 institute in any court of competent jurisdiction an action to  
929 prevent, restrain, correct, or abate any violation of this  
930 chapter or of airport zoning regulations adopted under this  
931 chapter or of any order or ruling made in connection with their

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932 administration or enforcement, and the court shall adjudge to  
933 the plaintiff such relief, by way of injunction, ~~(which may be~~  
934 ~~mandatory,)~~ or otherwise, as may be proper under all the facts  
935 and circumstances of the case in order to fully effectuate the  
936 purposes of this chapter and of the regulations adopted and  
937 orders and rulings made pursuant thereto.

938 (3) The department ~~of Transportation~~ may institute a civil  
939 action for injunctive relief in the appropriate circuit court to  
940 prevent violation of any provision of this chapter.

941 Section 15. Section 333.135, Florida Statutes, is created  
942 to read:

943 333.135 Transition provisions.—

944 (1) Any airport zoning regulation in effect on July 1,  
945 2016, which includes provisions in conflict with this chapter  
946 shall be amended to conform to the requirements of this chapter  
947 by July 1, 2017.

948 (2) Any political subdivision having an airport within its  
949 territorial limits which has not adopted airport zoning  
950 regulations shall, by July 1, 2017, adopt airport zoning  
951 regulations consistent with this chapter.

952 (3) For those political subdivisions that have not yet  
953 adopted airport zoning regulations pursuant to this chapter, the  
954 department shall administer the permitting process as provided  
955 in s. 333.025.

956 Section 16. Section 333.14, Florida Statutes, is repealed.

957 Section 17. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/16

Meeting Date

1508

Bill Number (if applicable)

Topic AIRPORT JOINING

Name MICHAEL D. STEWART

Job Title DIRECTOR- EXTERNAL AFFAIRS JAX AVIATION AUTHORITY

Address

Street

Phone

City

State

Zip

Email

Speaking:  For  Against  Information

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

Representing

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)

02/16/14  
Meeting Date

SB 1508  
Bill Number (if applicable)

Topic Airport Zoning

Name John R. Johnston

Job Title Lobbyist

Address 403 E. Park Ave  
Street

Phone 850.591.4904

hall FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Airport Council

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2.16.16  
Meeting Date

1508  
Bill Number (if applicable)

Topic Airport Zoning

Amendment Barcode (if applicable)

Name Gina Evans

Job Title Director Government Relations

Address PO Box 2287  
Street

Phone 813 579 0995

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

Email gevalns@tampaairport.com

Speaking:  For  Against  Information

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

Representing Tampa International Airport

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)

2/16/16

Meeting Date

1508

Bill Number (if applicable)

Topic Airport Zoning

Amendment Barcode (if applicable)

Name Chris Dawson

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

Address 301 E. Pine Street, Suite 1400  
Street

Phone 407-843-8880

Orlando, FL 32801  
City State Zip

Email Chris.dawson@gray-robinson.com

Speaking:  For  Against  Information

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

Representing Orlando-Melbourne International Airport

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: SB 301

Case No.:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 2/16/2016 1:32:31 PM

Ends: 2/16/2016 3:00:28 PM

Length: 01:27:58

1:32:32 PM Order  
1:32:35 PM Roll Call  
1:32:47 PM Quorum Present  
1:33:31 PM CS/CS/SB 686  
1:33:36 PM Senator Gaetz  
1:36:19 PM Questions  
1:36:23 PM Appearance  
1:36:42 PM Greg Pound  
1:38:19 PM Brian Pitts - Justice-2-Jesus  
1:41:32 PM Wiley Horton - FL Commission on Ethics  
1:41:42 PM Catherine Baer - Tea Party Network  
1:41:49 PM Ben Wilcox - Common Cause of FL  
1:41:51 PM Debate  
1:41:58 PM Senator Dean  
1:44:04 PM Close  
1:44:11 PM Roll Call CS/CS/SB 686  
1:44:21 PM CS/CS/SB 686 Reported Favorably  
1:44:29 PM SB 1520  
1:44:37 PM President Gaetz  
1:44:43 PM Amendment 639098  
1:44:46 PM Senator Bradley  
1:44:50 PM President Gaetz  
1:46:01 PM Questions  
1:46:04 PM Senator Bradley  
1:47:56 PM Senator Hutson  
1:49:34 PM Appearance  
1:50:00 PM Prebble Ranswell  
1:54:41 PM Sheriff Larry Ashley - Okaloosa County  
1:56:45 PM Senator Dean  
1:58:04 PM Debate  
1:58:07 PM Close  
1:58:17 PM Amendment 639098 Adopted  
1:58:21 PM Back on Bill as Amended  
1:58:23 PM Questions  
1:58:25 PM Appearance  
1:58:30 PM Brian Pitts - Justice-2-Jesus  
1:59:48 PM Sherry Pedonesi - Chinsegut Hill Retreat  
2:00:37 PM Tammy Heon - FL Adventure Coast Visitors Bureau  
2:03:23 PM Senator Bradley  
2:04:22 PM Armando Ibarra - Greater Miami and Beaches Hotel Assoc.  
2:06:22 PM Shawn Foster - Hernando County  
2:06:27 PM Amber Hughes - FL League of Cities  
2:06:37 PM Corey Skeates - Lakeland Area Chamber of Commerce  
2:06:42 PM Andy Palmer - FL Restaurant and Lodging Association  
2:06:52 PM Therese White - Motel 6 Spring Hill-Adventure Coast TDC  
2:06:55 PM Michael Beedie - City of Walton Beach  
2:07:01 PM Amy Jamieson - Ft. Walton Beach, FL  
2:07:06 PM Jacqueline Johnson, Lakeland Area Chamber of Commerce and Lakeland Hotel and Motel Assoc.  
2:07:11 PM Debate  
2:07:16 PM Close  
2:08:32 PM President Gaetz  
2:08:57 PM Roll Call SB 1520 as a Committee Substitute

2:09:03 PM SB 1520 Reported Favorably  
2:09:17 PM SB 418  
2:09:18 PM Senator Smith  
2:09:51 PM Questions  
2:09:53 PM Appearance  
2:09:57 PM Senator Brandes  
2:11:04 PM Appearance  
2:11:11 PM Matt Pucket - FL Police Benevolent Assoc.  
2:11:19 PM Senator Dean  
2:13:49 PM Appearance  
2:14:15 PM Raquel Regalato - School Board Miami-Dade County  
2:15:28 PM Brian Pitts - Justice-2-Jesus  
2:18:18 PM Jeffrey Chudnow - FL Police Chiefs Assoc.  
2:18:23 PM Jess McCarty - Miami-Dade County  
2:18:28 PM Richard Fortin - FL Sheriff's Assoc.  
2:18:35 PM Dennis Strange - Orange County Sheriffs Office  
2:18:36 PM Debate  
2:18:43 PM Close  
2:18:44 PM Senator Smith  
2:19:22 PM Roll Call SB 418  
2:19:30 PM SB 418 Reported Favorably  
2:19:37 PM SB 264  
2:19:39 PM Senator Smith  
2:20:18 PM Questions  
2:20:21 PM Senator Hutson  
2:21:02 PM Senator Dean  
2:23:19 PM Appearance  
2:23:28 PM Brian Pitts - Justice-2-Jesus  
2:26:03 PM Greg Pound - Pinellas County FL Gov't Corruption  
2:27:16 PM Ken Kopczynski - FL PBA  
2:27:30 PM Dave Ericks - City of North Lauderdale  
2:28:31 PM Senator Hutson  
2:29:53 PM Amber Hughes - FL League of Cities  
2:30:04 PM Debate  
2:32:00 PM SB 264 TP'd Without Objection  
2:32:05 PM CS/SB 46  
2:32:08 PM Senator Flores  
2:32:21 PM Legislative Aide, Tiffany Lorente  
2:32:32 PM Questions  
2:32:37 PM Appearance  
2:32:46 PM Jason Unger - Meadowbrook Insurance  
2:32:57 PM Senator Brandes  
2:33:05 PM Senator Bradley  
2:33:33 PM Roll Call CS/SB 46  
2:33:43 PM CS/SB 46 Reported Favorably  
2:33:55 PM SB 1100  
2:33:58 PM Senator Brandes  
2:34:03 PM Amendment  
2:34:16 PM Amendment 429176  
2:34:37 PM Questions  
2:34:39 PM Senator Dean  
2:38:01 PM Senator Hutson  
2:38:46 PM Senator Abruzzo  
2:40:35 PM Appearance  
2:40:42 PM Amber Hughes - FL League of Cities  
2:40:54 PM Davin Suggs - FL Assoc. of Counties  
2:41:36 PM Debate  
2:41:41 PM Senator Brandes  
2:41:43 PM Close  
2:41:48 PM Amendment Adopted  
2:41:51 PM Back on Bill as Amended  
2:41:53 PM Questions

2:41:55 PM Appearance  
2:42:03 PM Brian Pitts - Justice-2-Jesus  
2:44:48 PM Debate  
2:44:52 PM Senator Abruzzo  
2:46:34 PM Senator Dean  
2:46:38 PM Close  
2:46:40 PM Senator Brandes  
2:47:23 PM Roll Call SB 1100 as a Committee Substitute  
2:48:16 PM SB 1100 Reported Favorably  
2:48:26 PM SB 264  
2:48:36 PM Late-filed Amendment Senator Hutson  
2:49:02 PM Questions  
2:49:03 PM Debate  
2:49:06 PM Close  
2:49:09 PM Amendment Adopted  
2:49:13 PM Back on Bill as Amended  
2:49:18 PM Debate  
2:49:24 PM Senator Brandes  
2:49:44 PM Close  
2:49:46 PM Senator Smith  
2:49:58 PM Roll Call CS/SB 264  
2:50:07 PM CS/SB 264 Reported Favorably  
2:50:39 PM Turn Chair over to Senator Brandes  
2:50:43 PM SB 1508  
2:50:46 PM Senator Simpson  
2:51:15 PM Amendment  
2:51:22 PM Amendment 873038  
2:51:24 PM Senator Simpson  
2:51:27 PM Technical Amendment  
2:51:29 PM Questions  
2:51:35 PM Without Objection Adopted  
2:51:39 PM Back on Bill as Amended  
2:51:42 PM Appearance  
2:51:47 PM Chris Dawson - Orlando-Melbourne Int'l Airport  
2:51:52 PM Gina Evans - Tampa Int'l Airport  
2:51:54 PM John Johnson - FL Alrport Countil  
2:52:03 PM Michael Stewart - Jax Aviation Authority  
2:52:04 PM Debate  
2:52:11 PM Close  
2:52:21 PM Roll Call SB 1508 as a Committee Substitute  
2:52:33 PM SB 1508 Reported Favorably  
2:52:39 PM Turn Chair back over to Senator Simpson  
2:52:43 PM SB 20  
2:52:47 PM Senator Diaz de la Portilla  
2:52:49 PM Senator Hutson  
2:53:15 PM Questions  
2:53:18 PM Appearance  
2:53:19 PM Debate  
2:53:20 PM Close  
2:53:23 PM Roll Call SB 20  
2:53:35 PM SB 20 Reported Favorably  
2:53:41 PM SB 1152  
2:53:45 PM Diaz de la Portilla  
2:53:47 PM Senator Hutson  
2:54:19 PM Questions  
2:54:29 PM Senator Bradley  
2:54:55 PM Amendment 577974  
2:55:05 PM Senator Brandes  
2:55:11 PM Senator Hutson  
2:55:19 PM Questions  
2:55:22 PM Appearance  
2:55:23 PM Debate

**2:55:31 PM** Close  
**2:55:34 PM** Amendment Adopted  
**2:55:39 PM** Back on the Bill as Amended  
**2:55:41 PM** Questions  
**2:55:46 PM** Appearance  
**2:56:02 PM** Brian Pitts - Justice-2-Jesus  
**2:57:28 PM** Laura Youmans - FL Assoc. of Counties  
**2:57:35 PM** Debate  
**2:57:35 PM** Jess McCarty - Miami-Dade County  
**2:57:38 PM** Senator Bradley  
**2:58:25 PM** Senator Dean  
**2:58:55 PM** Senator Abruzzo  
**2:59:42 PM** Senator Brandes  
**2:59:55 PM** Close  
**3:00:04 PM** Roll Call SB 1152 as a Committee Substitute  
**3:00:13 PM** SB 1152 Reported Favorably  
**3:00:21 PM** Meeting Adjourned