

<b>Tab 1</b>	<b>SB 364</b> by <b>Grimsley</b> ; (Identical to H 00177) State Group Health Insurance and Prescription Drug Programs
<b>Tab 2</b>	<b>SB 368</b> by <b>Brandes (CO-INTRODUCERS) Rouson</b> ; (Similar to H 00111) Department of Management Services
<b>Tab 3</b>	<b>SB 404</b> by <b>Grimsley</b> ; (Identical to H 00155) State Symbols

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

**GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY**

**Senator Baxley, Chair**  
**Senator Mayfield, Vice Chair**

**MEETING DATE:** Tuesday, November 7, 2017  
**TIME:** 10:00 a.m.—12:00 noon  
**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

**MEMBERS:** Senator Baxley, Chair; Senator Mayfield, Vice Chair; Senators Galvano, Rader, Rouson, Stargel, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 364</b> Grimsley (Identical H 177, Compare H 257)	State Group Health Insurance and Prescription Drug Programs; Authorizing a water management district to participate in the state group health insurance program and the prescription drug coverage program upon the affirmative vote of a district's governing board; providing that monthly premium amounts be based on an actuarial analysis conducted by the Department of Management Services; requiring small counties, small municipalities, district school boards, and water management districts participating in the programs to bear the costs of the actuarial analysis, etc.  GO 11/07/2017 Favorable AGG AP	Favorable Yeas 7 Nays 0
2	<b>SB 368</b> Brandes (Similar H 111)	Department of Management Services; Creating the Statewide Procurement Efficiency Task Force within the department; specifying the purpose and membership of the task force; providing that task force members shall serve without compensation or reimbursement of expenses, etc.  GO 11/07/2017 Favorable AGG AP	Favorable Yeas 7 Nays 0
3	<b>SB 404</b> Grimsley (Identical H 155)	State Symbols; Abrogating the scheduled repeal of the state saltwater reptile designation; abrogating the scheduled repeal of the state horse designation; designating the Florida Cracker Cattle as the official state heritage cattle breed, etc.  GO 11/07/2017 Favorable RC	Favorable Yeas 7 Nays 0

Other Related Meeting Documents

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

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 364  
 INTRODUCER: Senator Grimsley  
 SUBJECT: State Group Health Insurance and Prescription Drug Programs  
 DATE: November 6, 2017      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	GO	<b>Favorable</b>
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____

**I. Summary:**

SB 364 authorizes a water management district to participate in the state group health insurance program and the prescription drug coverage program. Such participation requires an affirmative vote of the water management district’s governing board. A water management district may participate upon payment of a non-refundable fee, approval by the Department of Management Services, and acceptance of the same conditions that are imposed on small counties, small municipalities, and school board districts. Small counties, small municipalities, school board districts, and water management districts must pay for an actuarial analysis that establishes premiums.

The bill takes effect July 1, 2018.

**II. Present Situation:**

**State Employee Health Insurance Program**

Section 110.123, F.S., creates the State Employee Health Insurance Program that offers a comprehensive package of health insurance benefits for state employees which are provided in a cost-efficient and prudent manner, and allows state employees the option to choose benefit plans which best suit their individual needs. The state group insurance program is a state self-insured health insurance plan that includes the state group health insurance plans, health maintenance organization plans, group life insurance plans, TRICARE supplemental insurance plans<sup>1</sup>, group accidental death and dismemberment plans, group disability insurance plans, other group insurance plans or coverage choices, and other benefits.<sup>2</sup> As implemented by the Department of Management Services (DMS or department), the program offers two types of state group health

<sup>1</sup> The term “TRICARE supplemental insurance plan” means the Department of Defense Health Insurance Program for eligible members of the uniformed services authorized by 10 U.S.C. s. 1097.

<sup>2</sup> Section 110.123, (3)(b), F.S.

insurance plans from which an eligible employee may choose: a standard statewide Preferred Provider Organization (PPO) Plan or a standard Health Maintenance Organization (HMO) Plan.

The department is responsible for all aspects of the purchase of health care for state employees under the state group health insurance plan or plans, TRICARE supplemental insurance plans, and the health maintenance organization plans. These responsibilities include: the development of requests for proposals or invitations to negotiate for state employee health services, the determination of health care benefits to be provided, and the negotiation of contracts for health care and health care administrative services. Before the negotiation of contracts for health care services, the department is required to develop, with respect to state collective bargaining issues, the health benefits and terms to be included in the state group health insurance program. The department is responsible for the contract management and day-to-day management of the state employee health insurance program, including, but not limited to, employee enrollment, premium collection, payment to health care providers, and other administrative functions related to the program.<sup>3</sup>

Participation by individuals in the program is available to all state officers, full-time state employees, and part-time state employees and is voluntary. Participation in the program is also available to retired state officers and employees who elect at the time of retirement to continue coverage under the program, but may elect to continue all or only part of the coverage they had at the time of retirement. A surviving spouse may elect to continue coverage only under a state group health insurance plan, a TRICARE supplemental insurance plan, or a health maintenance organization plan.<sup>4</sup>

The department is required to establish a schedule of minimum benefits for health maintenance organization coverage. The schedule must include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; age-based and gender-based wellness benefits<sup>5</sup>; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO.<sup>6</sup>

The department is authorized to establish uniform deductibles, copayments, coverage tiers, or coinsurance schedules for all participating HMO plans.<sup>7</sup>

Each person participating in the state group insurance program may be required to contribute towards a total state group health premium that may vary depending upon the plan, coverage

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<sup>3</sup> Section 110.123, (3)(c), F.S.

<sup>4</sup> Section 110.123, (3)(g), F.S.

<sup>5</sup> The term “age-based and gender-based wellness benefits” includes aerobic exercise, education in alcohol and substance abuse prevention, blood cholesterol screening, health risk appraisals, blood pressure screening and education, nutrition education, program planning, safety belt education, smoking cessation, stress management, weight management, and women’s health education. *See* s. 110.123(3)(h)2.a., F.S.

<sup>6</sup> Section 110.123(3)(h)2.a., F.S.

<sup>7</sup> Section 110.123(3)(h)2.b., F.S.

level, and coverage tier selected by the enrollee and the level of state contribution authorized by the Legislature.<sup>8</sup>

**Prescription Drug Program**

The State Employee Health Insurance Program is administered by the Department of Management Services and has a single pharmaceutical benefit manager. All prescriptions are filled using this vendor and its associated network of pharmacies. The costs of the pharmacy benefit are embedded in the overall premiums paid by the employer and employee as well as the copayments made at the time of purchase.

	Standard Plan		High Deductible Plan	
	Retail	Mail	Retail	Mail
Generic	\$7	\$14	30%	30%
Preferred Brand	\$30	\$60	30%	30%
Non Preferred Brand	\$50	\$100	50%	50%

**Small counties, municipalities, and district school boards permissive participation**

Section 110.1228, F.S., authorizes small counties, small municipalities, and district school boards located in small counties to participate in the state group health program and the prescription drug program. To participate, a governing body or a district school board must submit an application along with a \$500 nonrefundable fee to the DMS. Any costs or savings to the state group health insurance program or the prescription drug coverage program resulting from such participation must be passed on to the local government participants and their employees. The costs or savings must be delineated based on the impact to the state, state officers and employees, and local government employers and their employees.<sup>9</sup>

Before a small county, small municipality, or district school board adopts an ordinance or resolution to participate in the state group health insurance program and prescription drug coverage program, it must issue a request for proposals to provide health insurance and prescription drug coverage. The request for proposals are required to seek coverages equivalent to those offered currently by the small county, small municipality, or district school board and coverages equivalent to the state group health insurance program and prescription drug coverage program. The request for proposals must provide an opportunity for the receipt of competitive proposals from all interested parties without restriction. All responsive proposals must be reviewed and considered by the small county, small municipality, and district school board before the adoption of any ordinance or resolution for participation in the state group health insurance program and prescription drug coverage program.<sup>10</sup>

<sup>8</sup> Section 110.123(3)(h)2.e., F.S.

<sup>9</sup> Section 110.1228(3), F.S.

<sup>10</sup> Section 110.1228(4), F.S.

If the department determines that a small county, small municipality, or district school board is eligible to enroll, the small county, small municipality, or district school board must agree to the following terms and conditions:

- The minimum enrollment or contractual period is 3 years.
- The small county, small municipality, or district school board must pay to the department an initial administrative fee of not less than \$2.61 per enrollee per month, or such other amount established annually to fully reimburse the department for its costs.
- Termination of participation of a small county, small municipality, or district school board requires written notice 1 year before the termination date.
- If participation is terminated, a small county, small municipality, or district school board may not reapply for participation for a period of 2 years.
- Small counties, small municipalities, and district school boards must reimburse the state for 100 percent of its costs, including administrative costs.
- If a small county, small municipality, or district school board employer fails to make the payments required by this section to fully reimburse the state, the Department of Revenue or the Department of Financial Services shall, upon the request of the DMS, deduct the amount owed by the employer from any funds not pledged to bond debt service satisfaction that are to be distributed by it to the small county, small municipality, or district school board. The amounts so deducted shall be transferred to the DMS for further distribution to the trust funds in accordance with this chapter.
- The small county, small municipality, or district school board shall furnish the department any information requested by the department which the department considers necessary to administer the state group health insurance program and the prescription drug coverage program.
- The small county, small municipality, or district school board shall adopt the state's eligibility rules.
- The small county, small municipality, or district school board may not participate in the state's cafeteria plan<sup>11</sup> that allows for pretax treatment of premium contributions. If pretax treatment is desirable for employees of these participating employers, each employee of a participating employer must execute a salary reduction agreement with that employer, and each participating employer is required establish its own cafeteria plan.
- The small county, small municipality, or district school board is required to pay monthly premiums in amounts sufficient to cover claims costs, department administrative costs, and third-party administrative costs and provide for adequate reserves and cash flow by contributing 3 months' premiums and costs in advance of the coverage effective date.<sup>12</sup>

### **Water management district group insurance**

Section 373.605, F.S., provides that water management districts may provide group insurance for its employees, and the employees of another water management district, in the same manner and with the same provisions and limitations authorized for other public employees under ss. 112.08, 112.09, 112.10, 112.11, and 112.14, F.S.

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<sup>11</sup> See 26 U.S. Code, s. 125 (Internal Revenue Code).

<sup>12</sup> Section 110.1228(5)(j), F.S.

### III. Effect of Proposed Changes:

**Section 1** amends s. 110.1228, F.S., to authorize a water management district to participate in the state group health insurance and the prescription drug coverage programs. Such participation requires an affirmative vote of the governing board of a water management district. A water management district must comply with all requirements of the section. In addition, the premiums to be paid must be established by an actuarial analysis conducted by the department in which the requesting party is considered by a distinct health insurance risk pool and as part of the state group health insurance program risk pool. The actuarial analysis must be paid for by the participating small county, small municipality, district school board, or water management district.

**Section 2** amends s. 373.605, F.S., to allow a water management district to alternatively participate in the state group health insurance program and the prescription drug coverage program after its governing board votes to do so affirmatively.

**Section 3** provides an effective date of July 1, 2018.

### 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 South Florida Water Management District, the water management district employees may benefit from lower health insurance and prescription drug costs and possibly better health insurance and prescription drug program alternatives.<sup>13</sup>

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<sup>13</sup> Email attachment from Phil Flood, Regional Representative, Ft. Myers Service Center, November 3, 2017, on file in the office of the Senate Committee on Governmental Oversight and Accountability.

**C. Government Sector Impact:**

Water management districts' share of premium costs may be reduced.<sup>14</sup> The water management districts are required to cover all costs associated with participation.<sup>15</sup>

**VI. Technical Deficiencies:**

According to the DMS:

[Section 110.1228(5)(j), F.S.] requires any entity participating in the Program and Prescription Drug Plan to pay premiums in an amount that covers all claims costs and administrative costs. Lines 132-138 of the bill require that the premiums be established by an actuarial analysis in which the entity "is considered both a distinct health insurance risk pool and as part of the state group health insurance program risk pool." It is unclear how the premium rate could be established by considering the entity as being both a distinct risk pool and as a part of the Program's risk pool; different risk pools would likely lead to differing premium rates.<sup>16</sup>

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 110.1228 and 373.605.

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

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

None.

**B. Amendments:**

None.

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

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

<sup>15</sup> See Email attachment from Phil Flood, Regional Representative, Ft. Myers Service Center, November 3, 2017, on file in the office of the Senate Committee on Governmental Oversight and Accountability; 2018 Agency Legislative Bill Analysis from the Department of Management Services, October 31, 2017, on file in the office of the Senate Committee on Governmental Oversight and Accountability.

<sup>16</sup> 2018 Agency Legislative Bill Analysis from the Department of Management Services, October 31, 2017, on file in the office of the Senate Committee on Governmental Oversight and Accountability.



By Senator Grimsley

26-00394A-18

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1 A bill to be entitled  
 2 An act relating to the state group health insurance  
 3 and prescription drug programs; amending s. 110.1228,  
 4 F.S.; defining the term "water management district";  
 5 authorizing a water management district to participate  
 6 in the state group health insurance program and the  
 7 prescription drug coverage program upon the  
 8 affirmative vote of a district's governing board;  
 9 establishing conditions and restrictions regarding  
 10 participation; providing that monthly premium amounts  
 11 be based on an actuarial analysis conducted by the  
 12 Department of Management Services; requiring small  
 13 counties, small municipalities, district school  
 14 boards, and water management districts participating  
 15 in the programs to bear the costs of the actuarial  
 16 analysis; conforming provisions to changes made by the  
 17 act; amending s. 373.605, F.S.; conforming a  
 18 provision; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22 Section 1. Section 110.1228, Florida Statutes, is amended  
 23 to read:

24 110.1228 Participation by small counties, small  
 25 municipalities, ~~and~~ district school boards, and water management  
 26 districts located in small counties.-

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

28 (a) "District school board" means a district school board  
 29 located in a small county or a district school board that

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30 receives funding pursuant to s. 1011.62(7).  
 31 (b) "Small municipality" means an incorporated municipality  
 32 that has a population of 12,500 or fewer according to the most  
 33 recent decennial census.  
 34 (c) "Small county" means a county that has a population of  
 35 100,000 or fewer according to the most recent decennial census.  
 36 (d) "Water management district" has the same meaning as in  
 37 s. 373.019.  
 38 (2) The governing body of a small county, ~~or~~ small  
 39 municipality, or water management district or a district school  
 40 board may apply for participation in the state group health  
 41 insurance program authorized in s. 110.123 and the prescription  
 42 drug coverage program authorized by s. 110.12315 by submitting  
 43 an application along with a \$500 nonrefundable fee to the  
 44 department.  
 45 (3) Any costs or savings to the state group health  
 46 insurance program or the prescription drug coverage program  
 47 resulting from such participation shall be passed on to the  
 48 local government and water management district participants and  
 49 their employees. Such costs or savings shall be delineated based  
 50 on the impact to the state, state officers and employees, ~~and~~  
 51 local government employers and their employees, and water  
 52 management districts and their employees.  
 53 (4) As a prerequisite to the adoption of an ordinance or  
 54 resolution or the affirmative vote of a governing board, for  
 55 participation in the state group health insurance program and  
 56 prescription drug coverage program, a small county, small  
 57 municipality, ~~or~~ district school board, or water management  
 58 district shall issue a request for proposals to provide health

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59 insurance and prescription drug coverage. Such request for  
 60 proposals shall seek coverages equivalent to those offered  
 61 currently by the small county, small municipality, ~~or~~ district  
 62 school board, or water management district and coverages  
 63 equivalent to the state group health insurance program and  
 64 prescription drug coverage program. Such request for proposals  
 65 must provide an opportunity for the receipt of competitive  
 66 proposals from all interested parties without restriction. The  
 67 small county, small municipality, ~~and~~ district school board, and  
 68 water management district shall review and consider all  
 69 responsive proposals before ~~prior to~~ the adoption of any  
 70 ordinance or resolution or the affirmative vote of any governing  
 71 board for participation in the state group health insurance  
 72 program and prescription drug coverage program.

73 (5) If the department determines that a small county, small  
 74 municipality, ~~or~~ district school board, or water management  
 75 district is eligible to enroll, the small county, small  
 76 municipality, ~~or~~ district school board, or water management  
 77 district must agree to the following terms and conditions:

78 (a) The minimum enrollment or contractual period will be 3  
 79 years.

80 (b) The small county, small municipality, ~~or~~ district  
 81 school board, or water management district must pay to the  
 82 department an initial administrative fee of not less than \$2.61  
 83 per enrollee per month, or such other amount established  
 84 annually to fully reimburse the department for its costs.

85 (c) Termination of participation of a small county, small  
 86 municipality, ~~or~~ district school board, or water management  
 87 district requires written notice 1 year before the termination

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88 date.

89 (d) If participation is terminated, a small county, small  
 90 municipality, ~~or~~ district school board, or water management  
 91 district may not reapply for participation for a period of 2  
 92 years.

93 (e) Small counties, small municipalities, ~~and~~ district  
 94 school boards, and water management districts shall reimburse  
 95 the state for 100 percent of its costs, including administrative  
 96 costs.

97 (f) If a small county, small municipality, ~~or~~ district  
 98 school board employer, or water management district fails to  
 99 make the payments required by this section to fully reimburse  
 100 the state, the Department of Revenue or the Department of  
 101 Financial Services shall, upon the request of the Department of  
 102 Management Services, deduct the amount owed by the employer from  
 103 any funds not pledged to bond debt service satisfaction that are  
 104 to be distributed by it to the small county, small municipality,  
 105 ~~or~~ district school board, or water management district. The  
 106 amounts so deducted shall be transferred to the Department of  
 107 Management Services for further distribution to the trust funds  
 108 in accordance with this chapter.

109 (g) The small county, small municipality, ~~or~~ district  
 110 school board, or water management district shall furnish the  
 111 department any information requested by the department which the  
 112 department considers necessary to administer the state group  
 113 health insurance program and the prescription drug coverage  
 114 program.

115 (h) The small county, small municipality, ~~or~~ district  
 116 school board, or water management district shall adopt the

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117 state's eligibility rules.

118 (i) The small county, small municipality, ~~or~~ district  
 119 school board, or water management district may not participate  
 120 in the state's cafeteria plan that allows for pretax treatment  
 121 of premium contributions. If pretax treatment is desirable for  
 122 employees of these participating employers, each employee of a  
 123 participating employer shall execute a salary reduction  
 124 agreement with that employer, and each participating employer  
 125 shall establish its own cafeteria plan.

126 (j) The small county, small municipality, ~~or~~ district  
 127 school board, or water management district shall pay monthly  
 128 premiums in amounts sufficient to cover claims costs, department  
 129 administrative costs, and third-party administrative costs and  
 130 provide for adequate reserves and cash flow by contributing 3  
 131 months' premiums and costs in advance of the coverage effective  
 132 date. The premiums must be established by an actuarial analysis  
 133 conducted by the department in which the requesting party is  
 134 considered both a distinct health insurance risk pool and as  
 135 part of the state group health insurance program risk pool. The  
 136 actuarial analysis must be paid for by the participating small  
 137 county, small municipality, district school board, or water  
 138 management district.

139 (6) ~~Sections The provisions of ss. 624.436-624.446~~ do not  
 140 apply to the State Group Insurance Program or to this section.

141 Section 2. Section 373.605, Florida Statutes, is amended to  
 142 read:

143 373.605 Group insurance for water management districts.—The  
 144 governing board of a water management district may provide group  
 145 insurance for its employees, and the employees of another water

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146 management district, in the same manner and with the same  
 147 provisions and limitations authorized for other public employees  
 148 under ss. 112.08, 112.09, 112.10, 112.11, and 112.14.  
 149 Alternatively, a water management district, after an affirmative  
 150 vote of its governing board, may participate in the state group  
 151 health insurance program and the prescription drug coverage  
 152 program under s. 110.1228.

153 Section 3. This act shall take effect July 1, 2018.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dennis Baxley, Chair  
Committee on Governmental Oversight and Accountability

**Subject:** Committee Agenda Request

**Date:** October 25, 2017

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I respectfully request that **Senate Bill #364**, relating to State Group Health Insurance and Prescription Drug Programs and **Senate Bill #404**, relating to State Symbols, be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

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Senator Denise Grimsley  
Florida Senate, District 26

cc: Diana Caldwell, Staff Director  
Tamra Redig, Committee Administrative Assistant

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11/7/17

Meeting Date

SB 364

Bill Number (if applicable)

Topic STATE GROUP HEALTH INSURANCE PROGRAM

Amendment Barcode (if applicable)

Name PHIL FLOOD

Job Title REGIONAL REP.

Address 2301 MCGREGOR BLVD  
Street

Phone \_\_\_\_\_

FT. MYERS FL 33901  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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 Governmental Oversight and Accountability

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BILL: SB 368

INTRODUCER: Senators Brandes and Rouson

SUBJECT: Department of Management Services

DATE: November 6, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Caldwell	GO	<b>Favorable</b>
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____

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**I. Summary:**

SB 368 creates the Statewide Procurement Efficiency Task Force to evaluate the effectiveness and value of state and local procurement laws and policies to the taxpayers of this state, determine where inconsistencies in such laws and policies exist, and submit a report by July 1, 2019. The final report of the task force must include, at a minimum, recommendations for consideration by the Legislature that promote procurement efficiency, streamline procurement policies, establish best management practices, and encourage increased use of state term contracts.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**Procurement of Personal Property and Services**

*Procurement of Personal Property and Services by State Agencies*

Chapter 287, F.S., regulates state agency<sup>1</sup> procurement of personal property and services.<sup>2</sup> The Department of Management Services (DMS) is responsible for overseeing state purchasing

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<sup>1</sup> As defined in s. 287.012(1), F.S., “agency” means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. “Agency” does not include the university and college boards of trustees or the state universities and colleges.

<sup>2</sup> Personal property” is not independently defined for purposes of ch. 287, F.S., but the chapter title for Chapter 287, F.S., is “Procurement of Personal Property and Services.” Additionally, the definition of “commodity” in s. 287.012(5), F.S., is “any of the various supplies, materials, goods, merchandise, food, equipment, information technology, and other personal property, including a mobile home, trailer, or other portable structure that has less than 5,000 square feet of floor space, purchased, leased, or otherwise contracted for by the state and its agencies.” This definition is used in Part I of Ch. 287, F.S., “Commodities, Insurance, and Contractual Services.”

activity including professional and contractual services<sup>3</sup> as well as commodities needed to support agency activities.<sup>4</sup> The DMS assists state agencies and eligible users by providing uniform commodity and contractual service procurement policies, rules, procedures, and forms.<sup>5</sup>

Agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Single source contracts,<sup>6</sup> which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,<sup>7</sup> which are used when an agency determines that standard services or goods will meet its needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals (RFP),<sup>8</sup> which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate (ITN),<sup>9</sup> which are used when negotiations are determined to be necessary to obtain the best value and involve a request for high complexity, customized, mission-critical services, by an agency dealing with a limited number of vendors.

Criteria used to evaluate proposals received pursuant to a RFP must include, but are not limited to:

- Price;
- Renewal price, if renewal is contemplated;
- Consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor; and
- Consideration of prior relevant experience of the vendor.<sup>10</sup>

In ITNs, the criteria to be used in determining the acceptability of the reply and guiding the selection of the vendors with which the agency will negotiate must be specified in the ITN. The evaluation criteria must also include consideration of prior relevant experience of the vendor.<sup>11</sup>

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<sup>3</sup> As defined in s. 287.012(8), F.S. "contractual service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services. The term does not include a contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of a facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to chapter 255 and rules adopted thereunder.

<sup>4</sup> See ss. 287.032 and 287.042, F.S.

<sup>5</sup> Section 287.032(2), F.S.

<sup>6</sup> Section 287.057(3)(c), F.S.

<sup>7</sup> Section 287.057(1)(a), F.S.

<sup>8</sup> Section 287.057(1)(b), F.S.

<sup>9</sup> Section 287.057(1)(c), F.S.

<sup>10</sup> Section 287.057(1)(b)3., F.S.

<sup>11</sup> Section 287.057(1)(c)3., F.S.

Contracts for commodities or contractual services in excess of \$35,000 must be procured utilizing a competitive solicitation process.<sup>12</sup> However, specified contractual services and commodities, such as artistic services and legal services, are not subject to competitive solicitation requirements.<sup>13</sup>

### ***State Term Contracts***

Current law authorizes the DMS to establish purchasing agreements and procure state term contracts for commodities and contractual services using the procurement methods described above.<sup>14</sup> These contracts are generally developed for purchases of commodities and services that are ongoing and common to multiple state agencies. State agencies are required to use state term contracts when they are available.<sup>15</sup> Other eligible users,<sup>16</sup> such as counties, cities, and school districts, may also utilize state term contracts.<sup>17</sup>

### ***Procurement of Personal Property and Services by Local Governments***

Local governments are not subject to the provisions of ch. 287.057, F.S., that prescribe methods for agencies' procurement of commodities or contractual services.<sup>18</sup> Local governmental units may look to the chapter for guidance in the procurement of goods and services, but many have local policies or ordinances to address competitive solicitations.<sup>19</sup>

### ***State and Local Government Procurement of Certain Professional Services***

In 1972, Congress passed the Brooks Act (Public Law 92-582), which codified Qualifications-Based Selection (QBS) as the federal procurement method for architect and engineering services. The QBS process entails first soliciting statements of qualifications from licensed architectural and engineering providers, selecting the most qualified respondent, and then negotiating a fair and reasonable price. The vast majority of states currently require a QBS process when selecting the services of architectural and engineering professionals.<sup>20</sup>

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<sup>12</sup> Section 287.057(1), F.S., requires all projects that exceed the Category Two (\$35,000) threshold contained in s. 287.017, F.S., to be competitively bid. As defined in s. 287.012(6), F.S., "competitive solicitation" means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

<sup>13</sup> See s. 287.057(3)(e), F.S.

<sup>14</sup> Section 287.042(2)(a), F.S.

<sup>15</sup> Section 287.056(1), F.S.

<sup>16</sup> See s. 287.012(11), F.S. and Rule 60A-1.001(2), F.A.C.

<sup>17</sup> Section 287.056(1), F.S.

<sup>18</sup> See ss. 287.012(1), F.S.

<sup>19</sup> In the absence of specific constitutional or statutory requirements, a public agency has no obligation to establish a bidding procedure and may contract in any manner not arbitrary or capricious. *Volume Servs. Div. of Interstate United Corp. v. Canteen Corp.*, 369 So. 2d 391 (Fla. 2d DCA 1979).

<sup>20</sup> Forty-six states use this process. American Council of Engineering Companies, Qualifications-Based Selection Resource Center, available at <http://www.acec.org/advocacy/qbs/> (last visited October 31, 2017).



The Florida Legislature enacted the Consultants' Competitive Negotiation Act (CCNA) in 1973,<sup>21</sup> which specifies the necessary procedures when procuring professional services<sup>22</sup> by an agency.<sup>23</sup>

Currently, the CCNA, codified in s. 287.055, F.S., specifies the process that state and local government agencies must follow when procuring the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper. The CCNA requires that state agencies publicly announce, in a consistent and uniform manner, each occasion when professional services must be purchased for one of the following:<sup>24</sup>

- A project, when the agency estimates the basic construction cost to exceed \$325,000.
- A planning or study activity, when the fee for professional services exceeds \$35,000.

The public notice must provide a general description of the project and describe how the interested consultants may apply for consideration.

The CCNA provides a two-phase selection process.<sup>25</sup> In the first phase, the “competitive selection,” the agency evaluates the qualifications and past performance of no fewer than three bidders. The agency selects the bidders, ranked in order of preference, and considers the most highly qualified to perform the required services. The CCNA requires consideration of several factors in determining the most highly qualified bidders.<sup>26</sup>

The CCNA prohibits the agency from requesting, accepting, and considering, during the competitive selection process, proposals for the compensation to be paid.<sup>27</sup>

Section 287.055(2)(d), F.S., defines the term “compensation” to mean the amount paid by the agency for professional services regardless of whether stated as compensation or as other types of rates.

In the second phase, the “competitive negotiation,” the agency negotiates compensation with the most qualified of the minimum three selected firms for professional services at compensation, which the agency determines, is “fair, competitive, and reasonable.”<sup>28</sup> If the agency cannot negotiate a satisfactory contract, the agency must formally terminate negotiations with that firm

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<sup>21</sup> Chapter 73-19, Laws of Fla.

<sup>22</sup> Section 287.055(2)(a), F.S., defines “professional services” as those within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

<sup>23</sup> Section 287.055(2)(b), F.S., defines “agency” as the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term “agency” does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06, F.S., or ss. 163.3220-163.3243, F.S.

<sup>24</sup> Section 287.055(3)(a)1., F.S.

<sup>25</sup> Sections 287.055(4) and (5), F.S.

<sup>26</sup> Section 287.055(4)(b), F.S., requires agencies to consider the following factors: the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and, the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

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

<sup>28</sup> Section 287.055(5)(a), F.S.

and must then negotiate with the second most qualified firm.<sup>29</sup> The agency must negotiate with the third most qualified firm if the negotiation with the second most qualified firm fails to produce a satisfactory contract.<sup>30</sup> If the agency cannot negotiate a satisfactory contract with any of the three selected, the agency must select additional firms in order of their competence and qualifications and continue negotiations until it reaches a contract.<sup>31</sup> Once negotiations with a firm are terminated, the agency cannot resume negotiations with that firm for the project.

In October 2011, the Attorney General opined that local governments could not create a hybrid procurement process for awarding projects and are limited to utilizing statutorily defined procedures.<sup>32</sup>

### ***Procurement of Construction Services for Public Property and Publicly Owned Buildings***

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. Section 255.29, F.S., requires the DMS to establish, by rule,<sup>33</sup> the following construction contract procedures for:

- Determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts, including procedures for the rejection of bidders who are reasonably determined from prior experience to be unqualified or irresponsible to perform the work required by a proposed contract.
- Awarding each state agency construction project to the lowest qualified bidder. Additionally, the DMS must provide procedures for cases in which the DMS declares a valid emergency to exist, which would necessitate the waiver of the rules governing the award of state construction contracts to the lowest qualified bidder.
- Governing negotiations for construction contracts and modifications to contract documents when the DMS Secretary determines that such negotiations are in the best interest of the state.
- Entering into performance-based contracts for the development of public facilities when the DMS determines the use of such contracts to be in the best interest of the state.

These procedures must include, but are not limited to:<sup>34</sup>

- Prequalification of bidders;
- Criteria to be used in developing requests for proposals which may provide for singular responsibility for design and construction, developer flexibility in material selection, construction techniques, and application of state-of-the-art improvements;
- Accelerated scheduling, including the development of plans, designs, and construction simultaneously; and

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<sup>29</sup> Section 287.055(5)(b), F.S.

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

<sup>31</sup> Section 287.055(5)(c), F.S.

<sup>32</sup> Op. Att’y Gen. Fla. 2011-21 (2011).

<sup>33</sup> *See* Chapter 60D-5, F.A.C., that establishes the procedures for s. 255.29, F.S. Rule 60D-5.001, F.A.C., requires procedures be followed in advertising for bids for construction contracts; in determining the eligibility of potential bidders to submit proposals for construction contracts; in awarding construction contracts; for waiver of non-material bid deviations; for rejection of bids; for disqualification of contractors; in requesting authority to negotiate contracts, and in negotiating contracts.

<sup>34</sup> Section 255.29(4)(a)-(d), F.S.

- Evaluation of proposals and award of contracts considering such factors as price, quality, and concept of the proposal.

The state must competitively bid contracts for construction projects that it projects to cost in excess of \$200,000.<sup>35</sup> County, municipal, or other political subdivision contracts for construction projects that are projected to cost in excess of \$200,000 also must be bid competitively.<sup>36</sup> Counties, municipalities, special districts, or other political subdivisions seeking to construct or improve a public building must bid the project competitively if the projected cost is in excess of \$300,000.<sup>37</sup>

The solicitation of competitive bids or proposals for any state construction project with anticipated costs of more than \$200,000 must be advertised publicly in the Florida Administrative Register (FAR) at least 21 days prior to the established bid opening.<sup>38</sup> If the construction project is projected to exceed \$500,000, the advertisement must be published in the FAR at least 30 days prior to the bid opening, and at least once in a newspaper of general circulation in the county where the project is located 30 days prior to the bid opening and at least 5 days prior to any scheduled prebid conference.<sup>39</sup>

### Advisory Bodies

Section 20.052, F.S., provides that an advisory body created by specific statutory enactment as an adjunct to an executive agency must be established, evaluated, or maintained in accordance with certain requirements. An advisory body may be created only when it is found to be necessary and beneficial to the furtherance of a public purpose,<sup>40</sup> and it must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of the public purpose.<sup>41</sup> The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.<sup>42</sup>

### III. Effect of Proposed Changes:

**Section 1** creates the Statewide Procurement Efficiency Task Force (task force) to evaluate the effectiveness and value of state and local procurement laws and policies to the taxpayers of this state and to determine where inconsistencies in such laws and policies exist. The task force is to be chaired by the DMS Secretary, or their designee, and composed of:

- Six members appointed by the Governor: one county government official, one municipal government official, one district school board member, and three representatives of the business community;

<sup>35</sup> Section 255.0525(1), F.S. Also, see Rules 60D-5.002(2) and 60D-5.0073, F.A.C.

<sup>36</sup> Section 255.0525(2), F.S.

<sup>37</sup> Section 255.20(1), F.S. (Special district as defined in ch. 189, F.S.). For electrical work, local governments must competitively award projects estimated to cost more than \$75,000 to an appropriately licensed contractor.

<sup>38</sup> Section 255.0525(1), F.S.

<sup>39</sup> *Id.* Similar publishing provisions apply to construction projects projected to cost more than \$200,000 for counties, municipalities, and other political subdivisions. See Section 255.0525(2), F.S.

<sup>40</sup> Section 20.052(1), F.S.

<sup>41</sup> Section 20.052(2), F.S.

<sup>42</sup> Section 20.052(5)(a), F.S.

- Two members appointed by the Speaker of the House of Representatives: one member of the House of Representatives and one attorney who is a Florida Bar member in good standing and has expertise in procurement law; and
- Two members appointed by the President of the Senate: one member of the Senate and one attorney who is a Florida Bar member in good standing and has expertise in procurement law.

Members of the task force are to serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

The bill also requires appointments to be made by July 31, 2018. By August 31, 2018, the task force is to have met to organize. The task force shall meet at the call of the chair. A majority of task force members constitutes a quorum, and a quorum is necessary for the purpose of voting on any action or recommendation of the task force. All meetings must be held in Tallahassee, unless otherwise decided by the task force, and no more than two such meetings may be held in other locations for the purpose of taking public testimony. The DMS is to provide administrative and technical support for the task force. The final report of the task force is to be submitted to the Governor, President of the Senate, and the Speaker of the House by July 1, 2019, and must include, at a minimum, recommendations for consideration by the Legislature to promote procurement efficiency, streamline procurement policies, establish best management practices, and encourage increased use of state term contracts. The task force is to be terminated December 31, 2019.

**Section 2** provides that the bill takes effect upon becoming a law.

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

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

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

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

None.

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

None.

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

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

None.

**B. Private Sector Impact:**

Indeterminate.

**C. Government Sector Impact:**

As the DMS is required to provide administrative and technical support to the Statewide Procurement Efficiency Task Force, it will incur an indeterminate amount of administrative expenses.<sup>43</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

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

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<sup>43</sup> 2018 Agency Legislative Bill Analysis from the Department of Management Services, October 31, 2017, on file in the office of the Senate Committee on Governmental Oversight and Accountability.

By Senator Brandes

24-00558-18

2018368\_\_

1 A bill to be entitled  
 2 An act relating to the Department of Management  
 3 Services; creating the Statewide Procurement  
 4 Efficiency Task Force within the department;  
 5 specifying the purpose and membership of the task  
 6 force; providing meeting requirements; providing for  
 7 administrative and technical support of the task  
 8 force; providing that task force members shall serve  
 9 without compensation or reimbursement of expenses;  
 10 requiring the task force to submit a report to the  
 11 Governor and the Legislature by a certain date;  
 12 providing for the termination of the task force;  
 13 providing an effective date.

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

15 Section 1. Statewide Procurement Efficiency Task Force.—  
 16 There is created the Statewide Procurement Efficiency Task Force  
 17 for the purpose of evaluating the effectiveness and value of  
 18 state and local procurement laws and policies to the taxpayers  
 19 of this state and determining where inconsistencies in such laws  
 20 and policies exist.

21 (1) The task force is composed of the following members:

22 (a) The Secretary of Management Services or his or her  
 23 designee, who shall serve as chair of the task force.

24 (b) Six members appointed by the Governor, as follows:

25 1. One county government official.

26 2. One municipal government official.

27 3. One district school board member.

28 Page 1 of 3

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

24-00558-18

2018368\_\_

30 4. Three representatives of the business community.  
 31 (c) Two members appointed by the Speaker of the House of  
 32 Representatives, as follows:  
 33 1. A member of the House of Representatives.  
 34 2. An attorney who is a member in good standing of The  
 35 Florida Bar and has expertise in procurement law.  
 36 (d) Two members appointed by the President of the Senate,  
 37 as follows:  
 38 1. A member of the Senate.  
 39 2. An attorney who is a member in good standing of The  
 40 Florida Bar and has expertise in procurement law.  
 41 (2) Task force members must be appointed by July 31, 2018.  
 42 By August 31, 2018, the task force shall meet to establish  
 43 procedures for the conduct of its business and to elect a vice  
 44 chair. The task force shall meet at the call of the chair. A  
 45 majority of the members of the task force constitutes a quorum,  
 46 and a quorum is necessary for the purpose of voting on any  
 47 action or recommendation of the task force. All meetings shall  
 48 be held in Tallahassee, unless otherwise decided by the task  
 49 force, and then no more than two such meetings may be held in  
 50 other locations for the purpose of taking public testimony.  
 51 Administrative and technical support shall be provided by the  
 52 department. Task force members shall serve without compensation  
 53 and are not entitled to reimbursement for per diem or travel  
 54 expenses.  
 55 (3) The task force must submit a final report to the  
 56 Governor, the President of the Senate, and the Speaker of the  
 57 House of Representatives by July 1, 2019. Such report must, at a  
 58 minimum, include recommendations for consideration by the

Page 2 of 3

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

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2018368\_\_

59 Legislature to promote procurement efficiency, streamline  
60 procurement policies, establish best management practices, and  
61 encourage increased use of state term contracts.  
62 (4) The task force is terminated December 31, 2019.  
63 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dennis Baxley  
Committee on Government Oversight and  
Accountability

**Subject:** Committee Agenda Request

**Date:** October 23, 2017

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I respectfully request that **Senate Bill #368**, relating to **Department of Management Services**, 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", written over a horizontal line.

Senator Jeff Brandes  
Florida Senate, District 24



**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 Governmental Oversight and Accountability

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BILL: SB 404

INTRODUCER: Senator Grimsley

SUBJECT: State Symbols

DATE: November 7, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>GO</u>	<u>Favorable</u>
2.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 404 removes from repeal the designation of the:

- Loggerhead Turtle as the official state saltwater reptile; and
- Florida Cracker Horse (Marshackie) as the official Florida state horse.

The bill additionally designates the Florida Cracker Cattle as the official Florida heritage cattle breed.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**Designation of Official State Emblems**

Chapter 15, F.S., designates official state emblems, including designations for a state tree, fruit, beverage, citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater and saltwater fish, marine and state saltwater mammal, butterfly, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad and transportation museums, flagship, soil, fiddle contest, band, Sports Hall of Fame, pie, and honey.<sup>1</sup>

The 2008 Legislature designated the:

- Loggerhead Turtle as the official state saltwater reptile<sup>2</sup>; and
- Florida Cracker Horse (Marshackie) as the official Florida state horse.<sup>3</sup>

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<sup>1</sup> Ch. 15, F.S.

<sup>2</sup> Section 15.0526(1), F.S.

<sup>3</sup> Section 15.0386(1), F.S.

Each of these designations is scheduled for repeal July 1, 2018, unless the Legislature reviews and reenacts the designations before that date.<sup>4</sup>

### **Loggerhead Turtle**

The loggerhead turtle is the most common sea turtle in the state. Adults, weighing between 200 and 350 pounds, are known for their large head. The world's largest loggerhead nesting aggregation takes place in the Southeastern United States. Of coastal areas in the Southeast, Florida represents 90 percent of the nesting aggregations. The majority of these loggerhead turtles nest in just five Florida counties, which are Brevard, Indian River, St. Lucie, Martin, and Palm Beach counties.<sup>5</sup>

The Federal Endangered Species Act protects the loggerhead sea turtle as a Threatened species pursuant to the Federal Endangered Species Act and as a Federally-designated Threatened species under Florida's Endangered and Threatened Species Rule and Florida's Marine Turtle Protection Act.<sup>6</sup>

Fishing poses the main threat to the loggerhead sea turtle's survival. Accidental capture in fish and shrimping nets traps the loggerhead sea turtle and results in eventual drowning. Coastal development in areas of large concentrations of nesting aggregation also threatens survival.<sup>7</sup>

### **Florida Cracker Horse (Marshhackie) and Florida Cracker Cattle**

The Florida Cracker Horse and the Florida Cracker Cattle are the state's first livestock. In 1521, Juan Ponce de Leon brought Andalusian cattle and horses with him on his second exploration of the New World. He arrived with the livestock in Fort Myers, Florida. Caloosa Indians forced his expedition back to their ship, and historians speculate that livestock, left behind, to be the first to roam wild in the state.<sup>8</sup>

### **Florida Cracker Cattle**

As stated above, Florida Cracker Cattle descend from cattle first brought to Florida by Spanish explorers in the 1500's.<sup>9</sup> In the late 1800's, Florida breeders began to import purebred beef and dairy breeds from Northern Europe. These cattle, crossbred with the cattle imported from Spain in the 1500's, produced the Florida Cracker Cattle.<sup>10</sup> Florida Cracker Cattle flourished in Florida. Considered a hardy breed, capable of surviving Florida's harsh conditions, Florida Cracker

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<sup>4</sup> Ch. 2008.34, L.O.F.

<sup>5</sup> Florida Fish and Wildlife Conservation Commission, *Loggerhead Nesting in Florida*, available at <http://myfwc.com/research/wildlife/sea-turtles/nesting/loggerhead/> (last visited on Nov. 2, 2017).

<sup>6</sup> Florida Fish and Wildlife Conservation Commission, *Wildlife Habitats*, available at <http://myfwc.com/wildlifehabitats/imperiled/profiles/reptiles/loggerhead-sea-turtle/> (last visited on Nov. 2, 2017).

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

<sup>8</sup> Stephen Monroe, Dept. of Agriculture and Consumer Services, *The Florida Department of Agriculture and Consumer Services Florida Cracker Cattle and Horse Program*, available at [http://www.floridacrackercattle.org/documents/Dept\\_Cracker\\_Cattle\\_&\\_Horse\\_Program.pdf](http://www.floridacrackercattle.org/documents/Dept_Cracker_Cattle_&_Horse_Program.pdf). (last visited on Nov. 1, 2017).

<sup>9</sup> Livestock Conservancy, *Florida Cracker Cattle*, available at <https://livestockconservancy.org/index.php/heritage/internal/florida-cracker-cattle> (last visited on Oct. 31, 2017).

<sup>10</sup> Monroe, *supra* note 8.

Cattle are known for their horns which go up rather than out, as is typical of other breeds. Researchers surmise that the design of their horns likely aided the cattle as they ran through Florida habitat of heavy scrub and low lying tree limbs, in contrast to other cattle.<sup>11</sup>

However, from the 1930's on, importing and crossbreeding other varieties of cattle threatened to eliminate the Florida Cracker Cattle:

The importation of Brahman and Brahman crossbred bulls ... significantly changed the genetic makeup of herds where they were introduced. Crossing the hardy cattle of old Florida "Cracker" cows with other breeds, especially Brahman, became very popular. Pure Cracker Cattle were quietly, almost without notice, being bred out of existence.<sup>12</sup>

By the late 1960's, few pure Cracker Cattle remained. In the 1970's, Doyle Conner, Sr., state Commissioner of Agriculture, implored cattle ranchers to preserve Cracker cattle as a heritage breed and requested contributions to start a state-owned herd of the cattle.<sup>13</sup> Family members of pioneer cattleman James Durrance responded by donating five heifers and a bull to the state Department of Agriculture and Consumer Services (department). Industry experts consider the Durrance Line to be the purest of the pure Cracker Cattle. From this donation, the department rebuilt the herd:

The cattle were kept at the Agricultural Complex in Tallahassee and as numbers increased, a herd was established at the Withlacoochee State Forest near Brooksville in 1979. Separate herds of Cracker cattle were also established by the Department of Natural Resources on the Lake Kissimmee State Park and the Paynes Prairie State Preserve during the 1970's. The Lake Kissimmee State Park herd was established from cattle of Durrance bloodlines and cattle obtained from the Hal Chaires family of Old Town. The Paynes Prairie herd was established with animals from the herd of Woody Tilton in addition to cattle transferred from Lake Kissimmee. Also ... a few small privately owned herds were being maintained.<sup>14</sup>

To this day, industry experts consider the Florida Cracker Cattle a prized breed. As such, the department continues to preserve and maintain the Durrance line of Cracker cattle. Additionally, the American Livestock Breeds Conservancy maintains a registry of approved Florida Cracker cattle as descendants of the original cattle.<sup>15</sup>

### **Florida Cracker Horse (Marshackie)**

In addition to the original herd brought to the state in 1521, subsequent Spanish explorers brought Andalusian horses to use in navigating expeditions and settlements. These horses had

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<sup>11</sup> Florida Cracker Cattle Association, *What are Cracker Cattle?*, available at <http://www.floridacrackercattle.org/what.shtml> (last visited on Nov. 1, 2017).

<sup>12</sup> Monroe, *supra* note 8.

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

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

<sup>15</sup> Florida Cracker Cattle Association, *supra* note 11.

been selectively bred and were of hardy stock and capable of travel and survival in the state's rough physical conditions.<sup>16</sup>

As a relief response to the Great Depression, herders moved cattle from the Dust Bowl into Florida. The cattle arrived infested with the parasitic screwworm, which led to widespread changes in ranching practice. Before the arrival of these cattle, ranchers used Florida Cracker Horses to herd and drive their cattle. After their arrival and to restrict the spread of screwworm, ranchers implemented fencing and dipping of cattle, which required them to rope cattle and hold them for treatment. Florida Cracker Horses fell into disfavor over the larger, stronger Quarter Horse. Like the original Florida Cracker Cattle, these horses almost became extinct.<sup>17</sup>

Several ranching families in the state held onto their pure Cracker Horses, narrowly preserving their survival. Notably, John Law Ayers maintained a herd of pure old Cracker stock, along with several other family ranchers, such as the Bronsons, Boals, Partins, and Sassers. In 1984, the Ayers family donated a small herd of Cracker Horses to the department.

Along with Florida Cracker Cattle, the department maintains Florida Cracker Horses (the Ayers line) at the Agricultural Complex in Tallahassee and the Withlacoochee State Forest near Brooksville.<sup>18</sup>

Florida Cracker Horses, small in stature, are known for their versatility in riding and work:

The ground covering gaits found in these horses include the flatfoot walk, running walk, trot and ambling gaits. Cracker Horses are willing workers whose actions show spirit, amazing stamina and endurance. Crackers have been used for trail, pleasure, reining, team roping, team penning, pulling wagons and always as working cow horses.<sup>19</sup>

To this day, industry experts consider Florida Cracker Horses a prized heritage breed. Like Florida Cracker Cattle, Cracker Horses are registered subject to a rigid test of qualifications. The registry originally consisted of thirty-one Cracker Horses. To date, over 800 horses have been registered.<sup>20</sup>

### III. Effect of Proposed Changes:

SB 404 removes from repeal the designation of the:

- Loggerhead Turtle as the official state saltwater reptile; and
- Florida Cracker Horse (Marshackie) as the official Florida state horse.

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<sup>16</sup> Monroe, *supra* note 8.

<sup>17</sup> Florida Cracker Horse Association, *History of the Cracker Horse*, available at <http://www.floridacrackerhorses.com/history.htm> (last visited on Nov. 2, 2017).

<sup>18</sup> Monroe, *supra* note 8.

<sup>19</sup> Florida Cracker Horse Association, *Breed Characteristics*, available at <http://www.floridacrackerhorses.com/breed.htm> (last visited on Nov. 2, 2017).

<sup>20</sup> Florida Cracker Horse Association, *About the Association*, available at <http://www.floridacrackerhorses.com/breed.htm> (last visited on Nov. 2, 2017).

The bill additionally designates the Florida Cracker Cattle as the official Florida heritage cattle breed.

The bill takes effect 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:

To the extent that this bill increases the value of the Florida Cracker Cattle and Florida Cracker Horse, based on their designation as official state heritage breeds, private owners of Cracker livestock may financially benefit.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 15.0386 and 15.0526.

This bill creates section 15.0527 of the Florida Statutes.

**IX. Additional Information:**

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

None.

B. **Amendments:**

None.

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

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By Senator Grimsley

26-00480-18

2018404\_\_

1 A bill to be entitled  
 2 An act relating to state symbols; amending s. 15.0386,  
 3 F.S.; abrogating the scheduled repeal of the state  
 4 saltwater reptile designation; amending s. 15.0526,  
 5 F.S.; abrogating the scheduled repeal of the state  
 6 horse designation; creating s. 15.0527, F.S.;  
 7 designating the Florida Cracker Cattle as the official  
 8 state heritage cattle breed; providing an effective  
 9 date.

10

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

12

13 Section 1. Section 15.0386, Florida Statutes, is amended to  
 14 read:

15 15.0386 Official state saltwater reptile.—

16 ~~(1) The Loggerhead Turtle is designated as the official~~  
 17 Florida state saltwater reptile.

18 ~~(2) This section is repealed July 1, 2018, unless reviewed~~  
 19 ~~and reenacted by the Legislature before that date.~~

20 Section 2. Section 15.0526, Florida Statutes, is amended to  
 21 read:

22 15.0526 Official state horse.—

23 ~~(1) The Florida Cracker Horse (Marshackie) is designated~~  
 24 as the official Florida state horse.

25 ~~(2) This section is repealed July 1, 2018, unless reviewed~~  
 26 ~~and reenacted by the Legislature before that date.~~

27 Section 3. Section 15.0527, Florida Statutes, is created to  
 28 read:

29 15.0527 Official state heritage cattle breed.—The Florida

Page 1 of 2

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

26-00480-18

2018404\_\_

30 Cracker Cattle is designated as the official Florida heritage  
 31 cattle breed.

32 Section 4. This act shall take effect upon becoming a law.

Page 2 of 2

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

# SB404

State Symbols



# Loggerhead Turtle

Official State Salt Water Reptile



# Florida Cracker Horse (Marsh tackie)

Official Florida State Horse



# Florida Cracker Cattle

Official Florida Heritage cattle breed





The Florida Senate

## Committee Agenda Request

**To:** Senator Dennis Baxley, Chair  
Committee on Governmental Oversight and Accountability

**Subject:** Committee Agenda Request

**Date:** October 25, 2017

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I respectfully request that **Senate Bill #364**, relating to State Group Health Insurance and Prescription Drug Programs and **Senate Bill #404**, relating to State Symbols, be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

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Senator Denise Grimsley  
Florida Senate, District 26

cc: Diana Caldwell, Staff Director  
Tamra Redig, Committee Administrative Assistant

# CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Committee on Governmental Oversight and Accountability

Judge:

Started: 11/7/2017 10:07:27 AM

Ends: 11/7/2017 10:14:56 AM

Length: 00:07:30

10:07:26 AM Meeting called to order  
10:07:38 AM Roll Call - Quorum is present  
10:08:02 AM Comments by Chair  
10:08:03 AM TAB 1- SB 364 Sen Grimsley, State Group Health Insurance and Prescription Drug Programs  
10:08:37 AM Explanation of bill by Sen. Grimsley  
10:08:50 AM Chairman asks if there are any questions on the bill?  
10:08:54 AM No questions by the committee members.  
10:09:04 AM There is one appearance card.  
10:09:10 AM Bill Flood, Regional Rep., SW Florida Water Management District waives in support of bill.  
10:09:22 AM Chairman, any debate on the bill? No debate.  
10:09:27 AM Sen. Grimsley waives close  
10:09:35 AM Roll Call - SB 364 Favorable  
10:09:55 AM TAB 2 - SB 368 by Sen. Brandes, presented by Dept. of Management Services  
10:10:51 AM Explanation of bill by Sen. Rouson (co-sponsor of the bill)  
10:10:58 AM Question by Sen. Galvano - Time line for reporting back  
10:10:58 AM Chairman asks if there are any questions on the bill?  
10:11:15 AM Sen Rouson on response  
10:11:35 AM Question by Sen. Stewart - Have League of Counties weighed in on this?  
10:11:46 AM Sen. Rouson in response  
10:11:50 AM Chairman, other questions?  
10:11:59 AM No appearance cards for bill  
10:12:11 AM Sen. Rouson waives close  
10:12:18 AM Roll Call -SB 368 - Favorable  
10:12:35 AM TAB 3 - SB 404 by Sen. Grimsley, State Symbols  
10:13:07 AM Chairman asks if there are any questions on the bill?  
10:13:15 AM Questions - none  
10:13:26 AM No appearance cards  
10:13:35 AM No debate on bill  
10:13:39 AM Sen. Grimsley waives close  
10:13:45 AM Roll Call - SB 404 - Favorable  
10:14:14 AM Chairman asks if there are any other business before the committee?  
10:14:22 AM Sen. Stargel - would like to be reflected as voting in the affirmative for SB 364 and SB 368  
10:14:37 AM Chairman, that will be a matter of record  
10:14:37 AM Sen. Radar moves we adjourn.