

Tab 1	CS/CS/SB 540 by BI, JU, Hukill ; (Similar to CS/CS/H 0393) Estates					
736432	A	S	RCS	RC, Gibson	Delete L.70 - 108.	01/14 02:11 PM
Tab 2	CS/SB 624 by GO, Hays ; (Compare to H 1037) Public Records/State Agency Information Technology Security Programs					
Tab 3	SB 498 by Sobel (CO-INTRODUCERS) Joyner ; (Identical to H 4003) Repeal of a Prohibition on Cohabitation					
Tab 4	SB 7030 by GO ; (Identical to H 7067) OGSR/Competitive Solicitation or Negotiation Strategies					
Tab 5	CS/CS/SB 308 by JU, CJ, Benacquisto ; (Similar to CS/CS/H 0131) Unattended Persons and Animals in Motor Vehicles					
Tab 6	CS/SB 458 by BI, Richter ; (Similar to H 0379) Transfers of Structured Settlement Payment Rights					
Tab 7	SB 1030 by Simmons ; (Identical to H 7045) Florida Statutes					
Tab 8	SB 1038 by Simmons ; (Identical to H 7049) Florida Statutes					
523840	A	S		RC, Simmons	Delete L.2016 - 2064.	01/12 05:18 PM
114760	SA	S		RC, Simmons	Delete L.2019 - 2064.	01/13 04:12 PM
Tab 9	SB 1040 by Simmons ; (Identical to H 7047) Florida Statutes					
Tab 10	SB 1032 by Simmons ; (Similar to H 7051) Florida Statutes					
560448	A	S		RC, Simmons	Delete L.29 - 91.	01/12 05:17 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Simmons, Chair
Senator Soto, Vice Chair

MEETING DATE: Thursday, January 14, 2016
TIME: 10:00 a.m.—12:00 noon
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Simmons, Chair; Senator Soto, Vice Chair; Senators Benacquisto, Diaz de la Portilla, Gaetz, Galvano, Gibson, Joyner, Latvala, Lee, Montford, Negron, and Richter

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 540 Banking and Insurance / Judiciary / Hukill (Similar CS/H 393)	Estates; Providing that the validity and the effect of a specified disposition of real property be determined by Florida law; authorizing a trustee to pay attorney fees and costs from the assets of the trust without specified approval or court authorization in certain circumstances; providing that specified qualified beneficiaries may be entitled to an order compelling the refund of a specified payment to the trust, etc. JU 11/17/2015 Fav/CS BI 12/01/2015 Fav/CS RC 01/14/2016 Fav/CS	Fav/CS Yeas 11 Nays 0
2	CS/SB 624 Governmental Oversight and Accountability / Hays (Compare H 1037)	Public Records/State Agency Information Technology Security Programs; Creating exemptions from public records requirements for certain records held by a state agency which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents and for certain portions of risk assessments, evaluations, external audits, and other reports of a state agency's information technology program; providing for future legislative review and repeal of the exemptions; providing statements of public necessity, etc. GO 12/01/2015 Fav/CS RC 01/14/2016 Favorable	Favorable Yeas 11 Nays 0
3	SB 498 Sobel (Identical H 4003)	Repeal of a Prohibition on Cohabitation; Deleting provisions prohibiting cohabitation by unmarried men and women, etc. CJ 11/17/2015 Favorable JU 12/01/2015 Favorable RC 01/14/2016 Favorable	Favorable Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 14, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 7030 Governmental Oversight and Accountability (Identical H 7067)	OGSR/Competitive Solicitation or Negotiation Strategies; Amending provisions which provide an exemption from public records requirements for bids, proposals, or replies submitted to an agency in response to a competitive solicitation; amending provisions which provide an exemption from public meetings requirements for portions of meetings in which a vendor participates in a negotiation, makes an oral presentation, or answers questions as part of a competitive solicitation or in which negotiation strategies are discussed, and which provides an exemption from public records requirements for the recording of, and any records presented at, exempt portions of such meetings; removing the scheduled repeal of the exemptions, etc. RC 01/14/2016 Favorable	Favorable Yeas 11 Nays 0
5	CS/CS/SB 308 Judiciary / Criminal Justice / Benacquisto (Similar CS/CS/H 131, Compare CS/H 329, S 200)	Unattended Persons and Animals in Motor Vehicles; Providing definitions; providing immunity from civil liability for entry into a motor vehicle related to the rescue of a person or an animal under certain circumstances; providing for applicability, etc. CJ 11/17/2015 Fav/CS JU 12/01/2015 Fav/CS RC 01/14/2016 Favorable	Favorable Yeas 11 Nays 0
6	CS/SB 458 Banking and Insurance / Richter (Similar H 379)	Transfers of Structured Settlement Payment Rights; Revising specified disclosures and notices that are or may be required to be given in order to effect transfers of structured settlement payment rights and payments under such rights; requiring the court to hold a hearing on the application; providing that following issuance of a court order approving the transfer, the structured settlement obligor and annuity issuer may rely on the order in redirecting certain payments and are released and discharged from certain liability, etc. JU 11/17/2015 Favorable BI 12/01/2015 Fav/CS RC 01/14/2016 Favorable	Favorable Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 14, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1030 Simmons (Identical H 7045)	Florida Statutes; Adopting the Florida Statutes 2016 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2016 shall be effective immediately upon publication; providing that general laws enacted during the October 19-November 6, 2015, special session and prior thereto and not included in the Florida Statutes 2016 are repealed; providing that general laws enacted after the October 19-November 6, 2015, special session are not repealed by this adoption act, etc. RC 01/14/2016 Favorable	Favorable Yeas 11 Nays 0
8	SB 1038 Simmons (Identical H 7049)	Florida Statutes; Reenacting, amending, and repealing provisions that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; correcting grammatical, typographical, and like errors, etc. RC 01/14/2016 Not Considered	Not Considered
9	SB 1040 Simmons (Identical H 7047)	Florida Statutes; Repealing and amending provisions which have become inoperative by noncurrent repeal or expiration and, pursuant to s. 11.242(5)(b) and (i), F.S., may be omitted from the 2016 Florida Statutes only through a reviser's bill duly enacted by the Legislature, etc. RC 01/14/2016 Not Considered	Not Considered
10	SB 1032 Simmons (Similar H 7051)	Florida Statutes; Amending provisions to conform to the directive of the Legislature in section 9 of chapter 2012-116, Laws of Florida, codified as section 11.242(5)(j), Florida Statutes, to prepare a reviser's bill to omit all statutes and laws, or parts thereof, which grant duplicative, redundant, or unused rulemaking authority, etc. RC 01/14/2016 Not Considered	Not Considered
11	Consideration of Rules Change: to revise Senate Seal and Coat of Arms		Recommend Favorable

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 Rules

BILL: CS/CS/CS/SB 540

INTRODUCER: Rules, Banking and Insurance Committee; Judiciary Committee; and Senator Hukill

SUBJECT: Estates

DATE: January 14, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Caldwell</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
3.	<u>Caldwell</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 540 specifies when a trustee may use trust assets to pay attorney fees and costs and establishes a procedure when a trustee seeks to use trust assets to pay attorney fees and costs incurred when defending a breach of trust claim. The bill also provides that Florida law determines the validity and effect of the disposition of real property located in the state.

II. Present Situation:

The Florida Trust Code¹ provides the duties and powers of the trustee, including the duty of loyalty.² A trustee is required to administer a trust in good faith, in accordance with the terms and purposes of the trust, in accordance with the Florida Trust Code, and solely in the interests of the beneficiaries of the trust.³

¹ Chapter 736, F.S.

² Section 736.0802, F.S.

³ Sections 736.0801 and 736.0802, F.S.

Payment of Costs and Attorney Fees from Assets of a Trust

A trustee may pay costs and attorney fees that have incurred in any proceeding, including a claim or defense based upon breach of trust,⁴ from the assets of the trust without the approval of any person and without court authorization unless the court orders otherwise.⁵

Currently, if a claim or defense based upon a breach of trust is made against a trustee in a proceeding, the trustee must provide written notice to each qualified beneficiary of the trust whose share of the trust may be affected by the intention to pay costs or attorney fees before making such payment. The written notice must be delivered by a method requiring a signed receipt and inform each qualified beneficiary of the right to apply to the court for an order prohibiting the trustee from paying attorney fees or costs from trust assets. A trustee who has been served the motion and pays attorney fees or costs, and the attorney who receives such fees or costs, before an order on the motion is issued by the court, are subject to certain remedies.⁶

A party must obtain a court order to prohibit a trustee from paying costs or attorney fees from trust assets if a claim or defense based upon breach of trust is made against a trustee in a proceeding. To obtain such court order, a party must make a reasonable showing by evidence in the record or by proffering evidence that provides a reasonable basis for a court to conclude that there has been a breach of trust. The trustee may proffer evidence to rebut the evidence. The court may defer ruling on the motion to allow for discovery to be taken by the parties. The court is required to enter an order prohibiting the payment of further attorney fees and costs from the assets of the trust and order attorney fees or costs previously paid from assets of the trust to be refunded if it finds that there is a reasonable basis to conclude that there has been a breach of trust, unless the court otherwise finds good cause. Such order does not limit a trustee's right to seek an order permitting the payment of some or all of the attorney fees or costs incurred in the proceeding from trust assets, including any fees required to be refunded, after the claim or defense is finally determined by the court.⁷

If a claim or defense based upon a breach of trust is withdrawn, dismissed, or resolved without a determination by the court that the trustee committed a breach of trust after the entry of an order prohibiting payment of attorney fees and costs, the trustee may pay costs or attorney fees incurred in the proceeding from the assets of the trust without further court authorization.⁸

If the court orders a refund, it may enter such sanctions as are appropriate if a refund is not made as directed by the court, including but not limited to, striking defenses or pleadings filed by the trustee.⁹

⁴ Section 736.0802(10)(b), F.S.

⁵ Section 736.0802(10), F.S.

⁶ Section 736.0802(10)(a), F.S. See paragraphs (b) and (c) for remedies.

⁷ Section 736.0802(10)(b), F.S.

⁸ Section 736.0802(10)(b), F.S.

⁹ Section 736.0802(10)(c), F.S.

The court's power to review fees and costs or the right of any interested persons to challenge fees and costs after payment, after an accounting, or after conclusion of the litigation is not limited.¹⁰

A trustee is not required to provide written notice if the action or defense is later withdrawn or dismissed by the party that is alleging a breach of trust or resolved without a determination of the court that the trustee committed a breach of trust.¹¹

According to the Real Property Probate and Trust Law Section, "the current statute lacks clarity, and thus fails to provide direction to lawyers and the court" on certain issues.¹² The paper identifies the following issues stating s. 736.0802(10), F.S. [lacks clarity regarding]:

- The circumstance under which the limitations imposed by the statute are triggered.
- Which categories of attorney's fees and costs are subject to the limitations.
- The circumstances under which the trustee must serve notice of an intention to pay attorney's fees and costs from trust assets and the consequences, if any, of paying such attorney's fees and costs from trust assets prior to serving notice.
- [Mandates that literally and unconditionally] require qualified beneficiaries to seek a court order to prohibit a trustee from using trust assets to pay attorney's fees and costs even when a trustee has no intention of doing so.
- Whether a trustee may use trust assets to pay its attorney's fees and costs upon a final determination in its favor by the trial court or whether the trustee must wait until a final determination by the appellate court.
- What type of showing is required to preclude a trustee from using trust assets to pay its attorney's fees and costs, and regarding the type of evidence that may be used to make or to rebut such a showing.¹³

Section 736.0816, F.S., provides for the specific powers of a trustee and allows a trustee to employ certain persons, including attorneys and pay reasonable compensation and costs incurred in connection with such employment from assets of the trust.

Section 736.1007, F.S., provides for a trustee's attorney fees if a trustee of a revocable trust retains an attorney to render legal services in connection with the initial administration of the trust. The trustee may pay the attorney without a court order.

Assets of Nondomiciliaries

Florida law determines the validity and effect of a testamentary disposition of tangible or intangible personal property or real property in this state.¹⁴

¹⁰ Section 736.0802(10)(d), F.S.

¹¹ Section 736.0802(10)(e), F.S.

¹² Real Property Probate and Trust Law Section of The Florida Bar, *White Paper Regarding a Trustee's Use of Trust Assets to Pay Attorney's Fees and Costs in Connection with Claim or Defense of Breach of Trust*, (on file with the Senate Committee on Judiciary).

¹³ *Id.*

¹⁴ Section 731.106(2), F.S.

III. Effect of Proposed Changes:

Payment of Costs and Attorney Fees from Assets of a Trust

Section 3 of the bill amends s. 736.0802(10), F.S., relating to a trustee's duty of loyalty and the payment of costs and attorney fees from assets of a trust. According to the Real Property Probate and Trust Law Section, the introduction to s. 736.0802(10), F.S., is rewritten to specify that the authority granted to a trustee under ss. 736.0816(20) and 736.1007(1), F.S., to pay attorney fees and costs from assets of the trust remains the general rule, while the provisions of this section are the exception to that rule.¹⁵

Paragraph (a) defines the term "pleading" to mean the same as defined in rule 1.100 of the Florida Rules of Civil Procedure. Generally, these are claims of relief. Paragraph (b) authorizes a trustee to pay attorney fees or costs in connection with a claim or defense of breach of trust made in a filed pleading without the approval of any person and without court authorization. However, the trustee must first serve a written notice of intent upon each qualified beneficiary of the trust whose share of the trust may be affected by the payment before the payment is made. The written notice does not need to be served upon a qualified beneficiary whose identity or location is unknown to, and not reasonably ascertainable by, the trustee. According to the Real Property Probate and Trust Law Section, the clarification is the specific reference to attorney fees and costs incurred in connection with a claim or defense of breach of trust that is set forth in a filed pleading and not other instances where attorney fees or costs are incurred such as ordinary trust administration or other judicial proceedings not alleging breach of trust or allegations of breach of trust that have not been set forth in a filed pleading.¹⁶

Paragraph (c) provides for the content of the written notice of intent and the manner of service. The written notice must identify the judicial proceeding in which the claim or defense of breach of trust has been made in a filed pleading and inform the person served of the right to apply to the court for an order prohibiting the trustee from using trust assets to pay attorney fees or costs or compelling the return of the attorney fees and costs already paid to the trust. The written notice of intent must be served by any commercial delivery service or form of mail requiring a signed receipt, the manner provided in the Florida Rules of Civil Procedure for service of process;¹⁷ or if the court has already acquired jurisdiction over any party in that judicial

¹⁵ Real Property Probate and Trust Law Section of The Florida Bar, *supra* note 12.

¹⁶ *Id.*

¹⁷ Rule 1.070 of the Florida Rules of Civil Procedure states in part:

(a) Summons; Issuance. Upon the commencement of the action, summons or other process authorized by law shall be issued forthwith by the clerk or judge under the clerk's or the judge's signature and the seal of the court and delivered for service without praecipe.

(b) Service; By Whom Made. Service of process may be made by an officer authorized by law to serve process, but the court may appoint any competent person not interested in the action to serve the process. When so appointed, the person serving process shall make proof of service by affidavit promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service shall not affect the validity of the service. When any process is returned not executed or returned improperly executed for any defendant, the party causing its issuance shall be entitled to such additional process against the unserved party as is required to effect service.

proceeding, in the manner provided for service of pleading and other documents by the Florida Rules of Civil Procedure.¹⁸

Paragraph (d) provides that in the event a trustee pays attorney fees and costs from trust assets before serving a notice of intent, any qualified beneficiary whose share of the trust may have been affected by such payment, who is not otherwise barred pursuant to the provisions of s. 736.1008, F.S., (that limits certain proceedings against a trustee), and who files a motion is entitled to an order compelling the return of such payment, together with statutory interest, to the trust. The court must award attorney fees and costs incurred in connection with the motion to compel as provided in s. 736.1004, F.S.

Paragraph (e) sets forth the process the court must follow. A qualified beneficiary must file a motion with the court and must have a share of the trust that is affected by the use of trust assets to pay attorney fees or costs and may not be barred under s. 736.1008, F.S. The court may prohibit the trustee from using trust assets to make a payment and, if a payment has been made from trust assets after service of a notice of intent, the court may enter an order compelling the return of the attorney fees and costs to the trust, with interest. If a hearing is held on a qualified beneficiary's motion, the court must deny the motion unless it finds a reasonable basis to conclude that there has been a breach of trust. However, the court may deny the motion if it finds good cause to do so. At the hearing, the movant may show that a reasonable basis exists that there has been a breach of trust, and the trustee may rebut such showing, by presenting affidavits, answers to interrogatories, admissions, depositions, and any evidence otherwise admissible under the Florida Evidence Code. According to the Real Property Probate and Trust Section, the types of evidence permitted are "summary judgement evidence" and also includes live witness testimony.¹⁹ This language clarifies that the qualified beneficiary needs to file a motion only if he or she wants to prohibit or compel the return of the payments and clarifies that the court may not prohibit or compel the return of such payments in the absence of making the requisite finding.²⁰

Paragraph (f) provides remedies. If a trustee fails to comply with a court order prohibiting the use of trust assets to pay attorney fees or costs or compelling such payment be refunded to the trust, the court may impose such remedies or sanctions as the court deems appropriate, including, without limitation, striking the defenses or pleadings filed by the trustee.

Paragraph (g) addresses the withdrawal, dismissal, or judicial resolution of a claim or defense of breach of trust. A trustee may use trust assets to pay attorney fees and costs without service of a notice of intent or order of the court if a claim or defense of breach of trust is withdrawn, dismissed, or judicially resolved in the trial court without a determination that the trustee has committed a breach of trust, notwithstanding an order prohibiting the use of trust assets to pay attorney fees and costs or compelling the return of such attorney fees and costs. The payment of attorney fees and costs from trust assets include those payments that the trustee may have returned to the trust pursuant to court order.

¹⁸ Rule 1.080(a) of the Florida Rules of Civil Procedure states in part: "Every pleading subsequent to the initial pleading, all orders, and every other document filed in the action must be served in conformity with the requirements of Florida Rule of Judicial Administration 2.516."

¹⁹ Real Property Probate and Trust Law Section of The Florida Bar, *supra* note 12.

²⁰ *Id.*

Paragraph (h) provides that the statute does not operate to limit the right of any interested person to challenge or object to the payment of compensation or costs from the trust at any time, to seek review of compensation under s. 736.0206, F.S., or to seek remedies for breach of trust under s. 736.1001, F.S.

Sections 4 and 5 amend ss. 736.0816 and 736.1007, F.S., to make conforming references and alerts attorneys and the courts that the authority of a trustee to use trust assets to pay the trustee's attorney fees and costs are subject to the limitations of s. 736.0802(10), F.S.

Assets of Nondomiciliaries

Section 1 creates s. 731.1055, F.S., to provide for the validity and effect of a disposition of all real property located in Florida. Such disposition, whether intestate or testate, is to be determined by Florida law.

Section 2 amends s. 731.106(2), F.S., to remove real property from the provisions addressing the disposition of property, both real and personal, in a will of a nonresident decedent. The disposition of real property is addressed separately in section 1.

Effective Date

Section 6 provides that the act 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals may be less likely to incur attorney fees litigating statutes that were previously unclear.

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: 731.106, 736.0802, 736.0816, and 736.1007. The bill creates section 731.1055, F.S.

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/CS by Rules on January 14, 2016:

The committee substitute removes sections 3 and 4 of the bill that amended ss. 736.0105 and 736.0412, F.S., relating to nonjudicial modification of an irrevocable trust.

CS/CS by Banking and Insurance on December 1, 2015:

The committee substitute corrects an erroneous reference to the Florida Rules of Civil Procedure.

CS by Judiciary on November 17, 2015:

The committee substitute creates a new section providing that the validity and effect of a disposition of all real property located in Florida, whether intestate or testate, is to be determined by Florida law. The bill also removes the qualification “under this section” from s. 736.0412(4)(c), F.S., in the underlying bill. The phrase related to a provision authorizing the nonjudicial modification of a trust if permitted by the terms of the trust.

B. Amendments:

None.



736432

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/14/2016	.	
	.	
	.	
	.	

The Committee on Rules (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 70 - 108.

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

And the title is amended as follows:

Delete lines 5 - 9

and insert:

by Florida law; amending s. 731.106, F.S.; conforming
provisions to changes made by the act; amending s.
736.0802, F.S.;

By the Committees on Banking and Insurance; and Judiciary; and
Senator Hukill

597-01758-16

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1 A bill to be entitled
2 An act relating to estates; creating s. 731.1055,
3 F.S.; providing that the validity and the effect of a
4 specified disposition of real property be determined
5 by Florida law; amending ss. 731.106 and 736.0105,
6 F.S.; conforming provisions to changes made by the
7 act, amending s. 736.0412, F.S.; providing
8 applicability for nonjudicial modification of
9 irrevocable trust; amending s. 736.0802, F.S.;

10 defining the term "pleading"; authorizing a trustee to
11 pay attorney fees and costs from the assets of the
12 trust without specified approval or court
13 authorization in certain circumstances; requiring the
14 trustee to serve a written notice of intent upon each
15 qualified beneficiary of the trust before the payment
16 is made; requiring the notice of intent to contain
17 specified information and to be served in a specified
18 manner; providing that specified qualified
19 beneficiaries may be entitled to an order compelling
20 the refund of a specified payment to the trust;
21 requiring the court to award specified attorney fees
22 and costs in certain circumstances; authorizing the
23 court to prohibit a trustee from using trust assets to
24 make a specified payment; authorizing the court to
25 enter an order compelling the return of specified
26 attorney fees and costs to the trust with interest at
27 the statutory rate; requiring the court to deny a
28 specified motion unless the court finds a reasonable
29 basis to conclude that there has been a breach of the

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

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30 trust; authorizing a court to deny the motion if it
31 finds good cause to do so; authorizing the movant to
32 show that a reasonable basis exists, and a trustee to
33 rebut the showing, through specified means;
34 authorizing the court to impose such remedies or
35 sanctions as it deems appropriate; providing that a
36 trustee is authorized to use trust assets in a
37 specified manner if a claim or defense of breach of
38 trust is withdrawn, dismissed, or judicially resolved
39 in a trial court without a determination that the
40 trustee has committed a breach of trust; providing
41 that specified proceedings, remedies, and rights are
42 not limited; amending ss. 736.0816 and 736.1007, F.S.;

43 conforming provisions to changes made by the act;
44 providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47

48 Section 1. Section 731.1055, Florida Statutes, is created
49 to read:

50 731.1055 Disposition of real property.-The validity and
51 effect of a disposition, whether intestate or testate, of real
52 property in this state shall be determined by Florida law.

53 Section 2. Subsection (2) of section 731.106, Florida
54 Statutes, is amended to read:

55 731.106 Assets of nondomiciliaries.-

56 (2) When a nonresident decedent, whether or not a citizen
57 of the United States, provides by will that the testamentary
58 disposition of tangible or intangible personal property having a

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

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59 situs within this state, ~~or of real property in this state,~~
 60 shall be construed and regulated by the laws of this state, the
 61 validity and effect of the dispositions shall be determined by
 62 Florida law. The court may, and in the case of a decedent who
 63 was at the time of death a resident of a foreign country the
 64 court shall, direct the personal representative appointed in
 65 this state to make distribution directly to those designated by
 66 the decedent's will as beneficiaries of the tangible or
 67 intangible property or to the persons entitled to receive the
 68 decedent's personal estate under the laws of the decedent's
 69 domicile.

70 Section 3. Paragraph (k) of subsection (2) of section
 71 736.0105, Florida Statutes, is amended to read:

72 736.0105 Default and mandatory rules.—

73 (2) The terms of a trust prevail over any provision of this
 74 code except:

75 (k) The ability to modify a trust under s. 736.0412, except
 76 as provided in s. 736.0412(4) (b) or (c).

77 Section 4. Section 736.0412, Florida Statutes, is amended
 78 to read:

79 736.0412 Nonjudicial modification of irrevocable trust.—

80 (1) After the settlor's death, a trust may be modified at
 81 any time as provided in s. 736.04113(2) upon the unanimous
 82 agreement of the trustee and all qualified beneficiaries.

83 (2) Modification of a trust as authorized in this section
 84 is not prohibited by a spendthrift clause or by a provision in
 85 the trust instrument that prohibits amendment or revocation of
 86 the trust.

87 (3) An agreement to modify a trust under this section is

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88 binding on a beneficiary whose interest is represented by
 89 another person under part III of this code.

90 (4) This section ~~does shall~~ not apply to any trust:

91 (a) ~~Any trust~~ Created prior to January 1, 2001.

92 (b) ~~Any trust~~ Created after December 31, 2000, and before
 93 July 1, 2016, if, under the terms of the trust, all beneficial
 94 interests in the trust must vest or terminate within the period
 95 prescribed by the rule against perpetuities in s. 689.225(2),
 96 notwithstanding s. 689.225(2) (f), unless the terms of the trust
 97 expressly authorize nonjudicial modification.

98 (c) Created on or after July 1, 2016, during the first 90
 99 years after it is created, unless the terms of the trust
 100 expressly authorize nonjudicial modification.

101 (d) ~~Any trust~~ For which a charitable deduction is allowed
 102 or allowable under the Internal Revenue Code until the
 103 termination of all charitable interests in the trust.

104 (5) For purposes of subsection (4), a revocable trust shall
 105 be treated as created when the right of revocation terminates.

106 (6) The provisions of this section are in addition to, and
 107 not in derogation of, rights under the common law to modify,
 108 amend, terminate, or revoke trusts.

109 Section 5. Subsection (10) of section 736.0802, Florida
 110 Statutes, is amended to read:

111 736.0802 Duty of loyalty.—

112 (10) Unless otherwise provided in this subsection, payment
 113 of costs or attorney ~~attorney's~~ fees incurred in any proceeding
 114 ~~from the assets of the trust~~ may be made by a the trustee from
 115 assets of the trust without the approval of any person and
 116 without court authorization, ~~unless the court orders otherwise~~

597-01758-16

2016540c2

117 as provided in ss. 736.0816(20) and 736.1007(1) ~~paragraph (b)~~.

118 (a) As used in this subsection, the term "pleading" means a
 119 pleading as defined in Rule 1.100 of the Florida Rules of Civil
 120 Procedure.

121 (b) If a trustee incurs attorney fees or costs in
 122 connection with a claim or defense of breach of trust which is
 123 made in a filed pleading, the trustee may pay such attorney fees
 124 or costs from trust assets without the approval of any person
 125 and without any court authorization. However, the trustee must
 126 serve a written notice of intent upon each qualified beneficiary
 127 of the trust whose share of the trust may be affected by the
 128 payment before such payment is made. The notice of intent does
 129 not need to be served upon a qualified beneficiary whose
 130 identity or location is unknown to, and not reasonably
 131 ascertainable by, the trustee.

132 (c) The notice of intent must identify the judicial
 133 proceeding in which the claim or defense of breach of trust has
 134 been made in a filed pleading and must inform the person served
 135 of his or her right under paragraph (e) to apply to the court
 136 for an order prohibiting the trustee from using trust assets to
 137 pay attorney fees or costs as provided in paragraph (b) or
 138 compelling the return of such attorney fees and costs to the
 139 trust. The notice of intent must be served by any commercial
 140 delivery service or form of mail requiring a signed receipt; the
 141 manner provided in the Florida Rules of Civil Procedure for
 142 service of process; or, as to any party over whom the court has
 143 already acquired jurisdiction in that judicial proceeding, in
 144 the manner provided for service of pleadings and other documents
 145 by the Florida Rules of Civil Procedure.

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146 (d) If a trustee has used trust assets to pay attorney fees
 147 or costs described in paragraph (b) before service of a notice
 148 of intent, any qualified beneficiary who is not barred under s.
 149 736.1008 and whose share of the trust may have been affected by
 150 such payment is entitled, upon the filing of a motion to compel
 151 the return of such payment to the trust, to an order compelling
 152 the return of such payment, with interest at the statutory rate.
 153 The court shall award attorney fees and costs incurred in
 154 connection with the motion to compel as provided in s. 736.1004.

155 (e) Upon the motion of any qualified beneficiary who is not
 156 barred under s. 736.1008 and whose share of the trust may be
 157 affected by the use of trust assets to pay attorney fees or
 158 costs as provided in paragraph (b), the court may prohibit the
 159 trustee from using trust assets to make such payment and, if
 160 such payment has been made from trust assets after service of a
 161 notice of intent, the court may enter an order compelling the
 162 return of the attorney fees and costs to the trust, with
 163 interest at the statutory rate. In connection with any hearing
 164 on a motion brought under this paragraph:

165 1. The court shall deny the motion unless it finds a
 166 reasonable basis to conclude that there has been a breach of
 167 trust. If the court finds there is a reasonable basis to
 168 conclude there has been a breach of trust, the court may still
 169 deny the motion if it finds good cause to do so.

170 2. The movant may show that such reasonable basis exists,
 171 and the trustee may rebut any such showing by presenting
 172 affidavits, answers to interrogatories, admissions, depositions,
 173 and any evidence otherwise admissible under the Florida Evidence
 174 Code.

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175 (f) If a trustee fails to comply with an order of the court
 176 prohibiting the use of trust assets to pay attorney fees or
 177 costs described in paragraph (b) or fails to comply with an
 178 order compelling that such payment be refunded to the trust, the
 179 court may impose such remedies or sanctions as the court deems
 180 appropriate, including, without limitation, striking the
 181 defenses or pleadings filed by the trustee.

182 (g) Notwithstanding the entry of an order prohibiting the
 183 use of trust assets to pay attorney fees and costs as provided
 184 in paragraph (b), or compelling the return of such attorney fees
 185 or costs, if a claim or defense of breach of trust is withdrawn,
 186 dismissed, or judicially resolved in the trial court without a
 187 determination that the trustee has committed a breach of trust,
 188 the trustee is authorized to use trust assets to pay attorney
 189 fees and costs as provided in paragraph (b) and may do so
 190 without service of a notice of intent or order of the court. The
 191 attorney fees and costs may include fees and costs that were
 192 refunded to the trust pursuant to an order of the court.

193 (h) This subsection does not limit proceedings under s.
 194 736.0206 or remedies for breach of trust under s. 736.1001, or
 195 the right of any interested person to challenge or object to the
 196 payment of compensation or costs from the trust.

197 ~~(a) If a claim or defense based upon a breach of trust is~~
 198 ~~made against a trustee in a proceeding, the trustee shall~~
 199 ~~provide written notice to each qualified beneficiary of the~~
 200 ~~trust whose share of the trust may be affected by the payment of~~
 201 ~~attorney's fees and costs of the intention to pay costs or~~
 202 ~~attorney's fees incurred in the proceeding from the trust prior~~
 203 ~~to making payment. The written notice shall be delivered by~~

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204 ~~sending a copy by any commercial delivery service requiring a~~
 205 ~~signed receipt, by any form of mail requiring a signed receipt,~~
 206 ~~or as provided in the Florida Rules of Civil Procedure for~~
 207 ~~service of process. The written notice shall inform each~~
 208 ~~qualified beneficiary of the trust whose share of the trust may~~
 209 ~~be affected by the payment of attorney's fees and costs of the~~
 210 ~~right to apply to the court for an order prohibiting the trustee~~
 211 ~~from paying attorney's fees or costs from trust assets. If a~~
 212 ~~trustee is served with a motion for an order prohibiting the~~
 213 ~~trustee from paying attorney's fees or costs in the proceeding~~
 214 ~~and the trustee pays attorney's fees or costs before an order is~~
 215 ~~entered on the motion, the trustee and the trustee's attorneys~~
 216 ~~who have been paid attorney's fees or costs from trust assets to~~
 217 ~~defend against the claim or defense are subject to the remedies~~
 218 ~~in paragraphs (b) and (c).~~

219 ~~(b) If a claim or defense based upon breach of trust is~~
 220 ~~made against a trustee in a proceeding, a party must obtain a~~
 221 ~~court order to prohibit the trustee from paying costs or~~
 222 ~~attorney's fees from trust assets. To obtain an order~~
 223 ~~prohibiting payment of costs or attorney's fees from trust~~
 224 ~~assets, a party must make a reasonable showing by evidence in~~
 225 ~~the record or by proffering evidence that provides a reasonable~~
 226 ~~basis for a court to conclude that there has been a breach of~~
 227 ~~trust. The trustee may proffer evidence to rebut the evidence~~
 228 ~~submitted by a party. The court in its discretion may defer~~
 229 ~~ruling on the motion, pending discovery to be taken by the~~
 230 ~~parties. If the court finds that there is a reasonable basis to~~
 231 ~~conclude that there has been a breach of trust, unless the court~~
 232 ~~finds good cause, the court shall enter an order prohibiting the~~

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233 ~~payment of further attorney's fees and costs from the assets of~~
 234 ~~the trust and shall order attorney's fees or costs previously~~
 235 ~~paid from assets of the trust to be refunded. An order entered~~
 236 ~~under this paragraph shall not limit a trustee's right to seek~~
 237 ~~an order permitting the payment of some or all of the attorney's~~
 238 ~~fees or costs incurred in the proceeding from trust assets,~~
 239 ~~including any fees required to be refunded, after the claim or~~
 240 ~~defense is finally determined by the court. If a claim or~~
 241 ~~defense based upon a breach of trust is withdrawn, dismissed, or~~
 242 ~~resolved without a determination by the court that the trustee~~
 243 ~~committed a breach of trust after the entry of an order~~
 244 ~~prohibiting payment of attorney's fees and costs pursuant to~~
 245 ~~this paragraph, the trustee may pay costs or attorney's fees~~
 246 ~~incurred in the proceeding from the assets of the trust without~~
 247 ~~further court authorization.~~

248 ~~(c) If the court orders a refund under paragraph (b), the~~
 249 ~~court may enter such sanctions as are appropriate if a refund is~~
 250 ~~not made as directed by the court, including, but not limited~~
 251 ~~to, striking defenses or pleadings filed by the trustee. Nothing~~
 252 ~~in this subsection limits other remedies and sanctions the court~~
 253 ~~may employ for the failure to refund timely.~~

254 ~~(d) Nothing in this subsection limits the power of the~~
 255 ~~court to review fees and costs or the right of any interested~~
 256 ~~persons to challenge fees and costs after payment, after an~~
 257 ~~accounting, or after conclusion of the litigation.~~

258 ~~(e) Notice under paragraph (a) is not required if the~~
 259 ~~action or defense is later withdrawn or dismissed by the party~~
 260 ~~that is alleging a breach of trust or resolved without a~~
 261 ~~determination by the court that the trustee has committed a~~

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262 ~~breach of trust.~~

263 Section 6. Subsection (20) of section 736.0816, Florida
 264 Statutes, is amended to read:

265 736.0816 Specific powers of trustee.—Except as limited or
 266 restricted by this code, a trustee may:

267 (20) Employ persons, including, but not limited to,
 268 attorneys, accountants, investment advisers, or agents, even if
 269 they are the trustee, an affiliate of the trustee, or otherwise
 270 associated with the trustee, to advise or assist the trustee in
 271 the exercise of any of the trustee's powers and pay reasonable
 272 compensation and costs incurred in connection with such
 273 employment from the assets of the trust, subject to s.
 274 736.0802(10) with respect to attorney fees and costs, and act
 275 without independent investigation on the recommendations of such
 276 persons.

277 Section 7. Subsection (1) of section 736.1007, Florida
 278 Statutes, is amended to read:

279 736.1007 Trustee's attorney's fees.—

280 (1) If the trustee of a revocable trust retains an attorney
 281 to render legal services in connection with the initial
 282 administration of the trust, the attorney is entitled to
 283 reasonable compensation for those legal services, payable from
 284 the assets of the trust, subject to s. 736.0802(10), without
 285 court order. The trustee and the attorney may agree to
 286 compensation that is determined in a manner or amount other than
 287 the manner or amount provided in this section. The agreement is
 288 not binding on a person who bears the impact of the compensation
 289 unless that person is a party to or otherwise consents to be
 290 bound by the agreement. The agreement may provide that the

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291 trustee is not individually liable for the attorney ~~attorney's~~
292 fees and costs.

293 Section 8. This act shall take effect July 1, 2016.

294

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/17/16

Meeting Date

540

Bill Number (if applicable)

Topic Estates

Amendment Barcode (if applicable)

Name Kenneth Pratt

Job Title Senior VP of Governmental Affairs

Address 1001 Thomasville Rd Ste 201

Phone 850-509-8020

Street

Tallahassee

FL

32312

City

State

Zip

Email kpratt@floridabankers.com

Speaking: For Against Information

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

Representing Florida Bankers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-14-16

Meeting Date

540

Bill Number (if applicable)

Topic Support the bill

Amendment Barcode (if applicable)

Name Martha Edentfield

Job Title attorney

Address #815 215 So Monroe St

Phone 850-999-4100

Street

Tallahassee

FL

32301

Email marthaedentfield@earthlink.net

City

State

Zip

Speaking: For Against Information

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

Representing The Real Property Probate & Trust Law Section of the Florida BAR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

December 1, 2015

The Honorable David Simmons
402 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 540 – Estates

Dear Chairman Simmons:

Senate Bill 540, relating Estates has been referred to the Rules Committee. I am requesting your consideration on placing SB 540 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: John B. Phelps, Staff Director of the Rules Committee
Cissy DuBose, Administrative Assistant of the Rules Committee

REPLY TO:

209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
 Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 624

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hays

SUBJECT: Public Records/State Agency Information Technology Security Programs

DATE: January 13, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Kim</u>	<u>Phelps</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 624 provides a public records exemption for information relating to information technology (IT) security incidents or breaches. Such information will be confidential and exempt if the information could facilitate unauthorized access, modification, disclosure or destruction of data, information or IT resources.

The bill also provides that portions of risk assessments, external audits, evaluations or other reports of a state agency's IT security program are confidential and exempt from public disclosure. The portions of such documents will be confidential and exempt if the information they contain would facilitate unauthorized modification, disclosure or destruction of data, information, or IT resources.

The bill provides a public necessity statement for both exemptions.

The bill will go into effect upon becoming law and applies the exemptions to records in existence prior to and after the effective date.

This is a new public records exemption, so a two-thirds vote by each chamber will be necessary for passage.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁷ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.¹⁸

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ FLA. CONST., art. I, s. 24(c).

¹⁸ Section 119.15(7), F.S.

Agency for State Technology

The Agency for State Technology (AST) is responsible for establishing standards for information technology (IT) security for state agencies.¹⁹ AST is responsible for assisting agencies in performing the following functions:

- Completing risk assessments and IT security audits, which must be submitted to AST;²⁰
- Establishing procedures for accessing information to ensure confidentiality and integrity of the data;²¹
- Responding to and recovering from security breaches;²²

In addition, each state agency head is required to perform the following functions:²³

- Designate an information security manager;
- Annually submit to AST the agency's IT security plan consistent with AST rules and guidelines;
- Conduct a comprehensive risk assessment every three years consistent with AST risk assessment methodology;
- Develop protocols for reporting IT security incidents and breaches to the Cybercrime Office of the Department of Law Enforcement (FDLE) and AST;
- Implement safeguards established by AST to address risk to the agency's information and technology;
- Ensure internal audits and evaluations of the agency's IT are conducted;
- Include IT security requirements consistent with AST and Department of Management Services protocols in solicitations for procurements;
- Train employees about IT security risks and protocols; and
- Develop a process for detecting, responding to and reporting information security breaches. State agencies must report each security incidents and breaches to AST, as well as the Department of Legal Affairs, individuals whose personal information was involved, and credit reporting agencies under certain circumstances.²⁴

The following information is confidential and exempt from public records laws:

- Comprehensive risk assessments pursuant to s. 282.318(4)(c), F.S.;
- Internal policy and procedures that could facilitate the unauthorized modification, disclosure or destruction of data or IT resources, pursuant s. 282.318(4)(d), F.S.; and
- Internal audit reports and evaluations of an agency's IT security resources, pursuant to s. 282.318(4)(f), F.S.

These documents must be released to the Auditor General, the Cybercrime Office of FDLE, AST. If an agency is under the Governor's jurisdiction, then the documents must be provided to the Chief Inspector General.

¹⁹ Section 282.318(3), F.S.

²⁰ Section 282.381(3)(b)3., F.S.

²¹ Section 282.381(3)(b)5., F.S.

²² Section 282.381(3)(b)7. and 8., F.S.

²³ Section 282.318(4), F.S.

²⁴ Section 282.318(4)(i), F.S. and s. 501.171, F.S.

III. Effect of Proposed Changes:

Section 1 makes confidential and exempt those records held by a state agency related to the detection, investigation or response to a security incident. Currently, agency heads are required to perform certain IT-related duties under s. 282.318(4), F.S. In particular, agency heads are required to develop and implement IT security protocols consistent with AST guidelines. If there is a security breach, an agency head must notify AST and the individual whose information was compromised.²⁵ The bill creates a new public records exemption for information that an agency generates while carrying out its duties. Records relating to an agency's detection, investigation or response to suspected or confirmed security incidents or breaches will be confidential and exempt if the records would facilitate the unauthorized access, modification, disclosure or destruction of:

- Physical or virtual data or information; or
- IT resources, including protocols for protecting those resources as well as any existing or proposed IT security methods.

The bill also creates a new public records exemption applicable to information held by all agencies, independent of any duties imposed on an agency head by s. 282.318(4), F.S. The exemption will protect portions of risk assessments, evaluations, external audits and other reports of a state agency's IT security program. External audits are defined as any audit conducted by an entity other than the state agency subject to the audit. This will make an audit performed by a private company or another agency, such as AST, confidential and exempt.²⁶

Portions of such documents will be confidential and exempt from public disclosure only if the disclosure of such information could facilitate unauthorized access, modification, disclosure or destruction of:

- Physical or virtual data or information; or
- IT resources, including protocols for protecting those resources as well as any existing or proposed IT security methods.

Both exemptions provide that a state agency must to share confidential and exempt information with the Auditor General, AST and the Cybercrimes Office of the FDLE. State agencies under the Governor's jurisdiction are required to release the confidential and exempt information to the Chief Inspector General. The bill permits agencies to share confidential and exempt information with local governments, other state agencies, and federal agencies for IT purposes or in furtherance of the agency's official duties. The bill permits a state agency to have some flexibility in sharing confidential and exempt information with other governmental entities without the requiring an agency to get a court order to do so. For example, AST has some local government clients and may need to share IT security information with them. In addition, AST may need to share IT security information with federal agencies that fund state-administered programs.

²⁵ Section 282.318(4)(i)1. and 2. F.S.

²⁶ Currently, agency heads are required to perform internal audits, which are currently confidential and exempt pursuant to s. 282.318(4)(f), F.S. As the law currently reads, it is not explicitly clear if an audit performed by AST or a private company hired by a state agency qualifies as an 'internal audit.'

The bill provides for retroactive application for both public records exemptions; thus information held by a state agency before these exemptions becomes law will become confidential and exempt. These exemptions will be subject to review and repeal on October 2, 2021, pursuant to the OGSR.

Section 2 provides the public necessity statements for both public records exemptions, as required by the Florida Constitution.

Subsection 1 address the public necessity for records relating to the detection, investigation or response to security incidents or breaches.

Subparagraph (1)(b)1. states that releasing information related to security incidents and breaches could impede and impair investigations and that releasing such information before it is complete could jeopardize the investigation.

Subparagraph (1)(b)2. states that investigations of security incidents is likely to include gathering sensitive personal information (such as financial or health information) that is not otherwise protected under a public records exemption. Such information could be used for purposes of identity theft or other crimes and should not be released.

Subparagraph (1)(b)3. provides that the release of a records, including computer forensic reports, or other information that would reveal the weakness of a state agency's date security upon the conclusion of an investigation could reveal security weaknesses that could compromise the agency in the future, as well compromise other agencies.

Subparagraph (1)(b)4. provides that information held by an agency relating to a security breach or incident may contain proprietary information. Disclosure of such information could result in identification of vulnerabilities and result in further breaches. The public necessity statement goes on to state that the release of proprietary information could cause financial loss and give a business's competitors an unfair advantage.

Subparagraph (1)(b)5. states that disclosure of records could compromise the integrity of state agency data and IT resources and impair the administration of government programs. This paragraph also states that the exemption should be retroactive because it is remedial in nature.

Subsection 2 contains the public necessity statement for risk assessments, evaluations, external audits and other reports of a state agency's IT security system. The bill states that the Legislature finds that reviews of an agency's IT system are valuable. Risk assessments, evaluations, external audits and other reports would identify vulnerabilities in systems and make recommendations for remedies, therefore disclosure of such information would compromise the integrity of an agency's IT resources and impair the administration of government. The bill goes on to state that the exemption is remedial in nature, and should be given retroactive application.

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

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

There is no known private sector impact from this bill. However, the public necessity statement suggests that this bill will help private sector businesses.²⁷

C. Government Sector Impact:

Unknown. Presumably, the redactions will create additional work for records custodians, however, this most likely will be absorbed by existing agency resources.²⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 282.318 of the Florida Statutes.

²⁷ 2015 Agency Legislative Bill analysis by the State Agency by AST dated November 3, 2015. FDLE and the Auditor General did not comment on this issue in the bill analyses.

²⁸ The bill analyses provided by AST, FDLE and the Auditor General indicate that this bill will not impact their agencies.

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

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

The CS by Governmental Oversight on December 1, 2015:

- Reorganizes the structure of the exemptions.
- Provides clearer definition of what information is subject to the exemptions.
- Provides that information related the physical and virtual security is confidential and exempt.
- Provides additional description of information technology resources.
- Clarifies that the exemptions apply to all agencies, thereby reducing ambiguity as to whether information is exempt only in the hands of AST.
- Adds a definition of external audit.
- Expands the general agency exemption to include risk assessments, and other reports of a state agency's IT security program.
- Provides that confidential and exempt information may be shared with local governments, other state agencies, and the federal government.
- Removes portions of the public necessity statement which were related to existing public records exemptions or were otherwise not directly related to the new exemptions.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability;
and Senator Hays

585-01760-16

2016624c1

1 A bill to be entitled
2 An act relating to public records; amending s.
3 282.318, F.S.; creating exemptions from public records
4 requirements for certain records held by a state
5 agency which identify detection, investigation, or
6 response practices for suspected or confirmed
7 information technology security incidents and for
8 certain portions of risk assessments, evaluations,
9 external audits, and other reports of a state agency's
10 information technology program; authorizing disclosure
11 of confidential and exempt information to certain
12 agencies and officers; providing for retroactive
13 application; providing for future legislative review
14 and repeal of the exemptions; providing statements of
15 public necessity; providing an effective date.
16
17 Be It Enacted by the Legislature of the State of Florida:
18
19 Section 1. Paragraph (i) of subsection (4) of section
20 282.318, Florida Statutes, is amended, present subsection (5) of
21 that section is renumbered as subsection (6), and a new
22 subsection (5) is added to that section, to read:
23 282.318 Security of data and information technology.—
24 (4) Each state agency head shall, at a minimum:
25 (i) Develop a process for detecting, reporting, and
26 responding to threats, breaches, or information technology
27 security incidents ~~which is that are~~ consistent with the
28 security rules, guidelines, and processes established by the
29 Agency for State Technology.

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2016624c1

30 1. All information technology security incidents and
31 breaches must be reported to the Agency for State Technology.
32 2. For information technology security breaches, state
33 agencies shall provide notice in accordance with s. 501.171.
34 3. Records held by a state agency which identify detection,
35 investigation, or response practices for suspected or confirmed
36 information technology security incidents, including suspected
37 or confirmed breaches, are confidential and exempt from s.
38 119.07(1) and s. 24(a), Art. I of the State Constitution, if the
39 disclosure of such records would facilitate unauthorized access
40 to or the unauthorized modification, disclosure, or destruction
41 of:
42 a. Data or information, whether physical or virtual; or
43 b. Information technology resources, which includes:
44 (I) Information relating to the security of the agency's
45 technologies, processes, and practices designed to protect
46 networks, computers, data processing software, and data from
47 attack, damage, or unauthorized access; or
48 (II) Security information, whether physical or virtual,
49 which relates to the agency's existing or proposed information
50 technology systems.
51
52 Such records shall be available to the Auditor General, the
53 Agency for State Technology, the Cybercrime Office of the
54 Department of Law Enforcement, and, for state agencies under the
55 jurisdiction of the Governor, the Chief Inspector General. Such
56 records may be made available to a local government, another
57 state agency, or a federal agency for information technology
58 security purposes or in furtherance of the state agency's

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59 official duties. This exemption applies to such records held by
 60 a state agency before, on, or after the effective date of this
 61 exemption. This subparagraph is subject to the Open Government
 62 Sunset Review Act in accordance with s. 119.15 and shall stand
 63 repealed on October 2, 2021, unless reviewed and saved from
 64 repeal through reenactment by the Legislature.

65 (5) The portions of risk assessments, evaluations, external
 66 audits, and other reports of a state agency's information
 67 technology security program for the data, information, and
 68 information technology resources of the state agency which are
 69 held by a state agency are confidential and exempt from s.
 70 119.07(1) and s. 24(a), Art. I of the State Constitution if the
 71 disclosure of such portions of records would facilitate
 72 unauthorized access to or the unauthorized modification,
 73 disclosure, or destruction of:

74 (a) Data or information, whether physical or virtual; or

75 (b) Information technology resources, which include:

76 1. Information relating to the security of the agency's
 77 technologies, processes, and practices designed to protect
 78 networks, computers, data processing software, and data from
 79 attack, damage, or unauthorized access; or

80 2. Security information, whether physical or virtual, which
 81 relates to the agency's existing or proposed information
 82 technology systems.

83
 84 Such portions of records shall be available to the Auditor
 85 General, the Cybercrime Office of the Department of Law
 86 Enforcement, the Agency for State Technology, and, for agencies
 87 under the jurisdiction of the Governor, the Chief Inspector

585-01760-16 2016624c1

88 General. Such portions of records may be made available to a
 89 local government, another state agency, or a federal agency for
 90 information technology security purposes or in furtherance of
 91 the state agency's official duties. For purposes of this
 92 subsection, "external audit" means an audit that is conducted by
 93 an entity other than the state agency that is the subject of the
 94 audit. This exemption applies to such records held by a state
 95 agency before, on, or after the effective date of this
 96 exemption. This subsection is subject to the Open Government
 97 Sunset Review Act in accordance with s. 119.15 and shall stand
 98 repealed on October 2, 2021, unless reviewed and saved from
 99 repeal through reenactment by the Legislature.

100 Section 2. (1)(a) The Legislature finds that it is a public
 101 necessity that public records held by a state agency which
 102 identify detection, investigation, or response practices for
 103 suspected or confirmed information technology security
 104 incidents, including suspected or confirmed breaches, be made
 105 confidential and exempt from s. 119.07(1), Florida Statutes, and
 106 s. 24(a), Article I of the State Constitution if the disclosure
 107 of such records would facilitate unauthorized access to or the
 108 unauthorized modification, disclosure, or destruction of:

109 1. Data or information, whether physical or virtual; or

110 2. Information technology resources, which includes:

111 a. Information relating to the security of the agency's
 112 technologies, processes, and practices designed to protect
 113 networks, computers, data processing software, and data from
 114 attack, damage, or unauthorized access; or

115 b. Security information, whether physical or virtual, which
 116 relates to the agency's existing or proposed information

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117 technology systems.
 118 (b) Such records shall be made confidential and exempt for
 119 the following reasons:
 120 1. Records held by a state agency which identify
 121 information technology detection, investigation, or response
 122 practices for suspected or confirmed information technology
 123 incidents or breaches are likely to be used in the investigation
 124 of the incident or breach. The release of such information could
 125 impede the investigation and impair the ability of reviewing
 126 entities to effectively and efficiently execute their
 127 investigative duties. In addition, the release of such
 128 information before completion of an active investigation could
 129 jeopardize the ongoing investigation.
 130 2. An investigation of an information technology security
 131 incident or breach is likely to result in the gathering of
 132 sensitive personal information, including identification numbers
 133 and personal financial and health information not otherwise
 134 exempt or confidential and exempt from public records
 135 requirements under any other law. Such information could be used
 136 for the purpose of identity theft or other crimes. In addition,
 137 release of such information could subject possible victims of
 138 the incident or breach to further harm.
 139 3. Disclosure of a record, including a computer forensic
 140 analysis, or other information that would reveal weaknesses in a
 141 state agency's data security could compromise the future
 142 security of that agency or other entities if such information
 143 were available upon conclusion of an investigation or once an
 144 investigation ceased to be active. The disclosure of such a
 145 record or information could compromise the security of state

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146 agencies and make those state agencies susceptible to future
 147 data incidents or breaches.
 148 4. Such records are likely to contain proprietary
 149 information about the security of the system at issue. The
 150 disclosure of such information could result in the
 151 identification of vulnerabilities and further breaches of that
 152 system. In addition, the release of such information could give
 153 business competitors an unfair advantage and weaken the position
 154 of the entity supplying the proprietary information in the
 155 marketplace.
 156 5. The disclosure of such records could potentially
 157 compromise the confidentiality, integrity, and availability of
 158 state agency data and information technology resources, which
 159 would significantly impair the administration of vital
 160 governmental programs. It is necessary that this information be
 161 made confidential in order to protect the technology systems,
 162 resources, and data of state agencies. The Legislature further
 163 finds that this public records exemption be given retroactive
 164 application because it is remedial in nature.
 165 (2) (a) The Legislature also finds that it is a public
 166 necessity that portions of risk assessments, evaluations,
 167 external audits, and other reports of a state agency's
 168 information technology security program for the data,
 169 information, and information technology resources of the state
 170 agency which are held by a state agency be made confidential and
 171 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 172 Article I of the State Constitution if the disclosure of such
 173 portions of records would facilitate unauthorized access to or
 174 the unauthorized modification, disclosure, or destruction of:

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585-01760-16

2016624c1

175 1. Data or information, whether physical or virtual; or
176 2. Information technology resources, which includes:
177 a. Information relating to the security of the agency's
178 technologies, processes, and practices designed to protect
179 networks, computers, data processing software, and data from
180 attack, damage, or unauthorized access; or
181 b. Security information, whether physical or virtual, which
182 relates to the agency's existing or proposed information
183 technology systems.

184 (b) The Legislature finds that it may be valuable, prudent,
185 or critical to a state agency to have an independent entity
186 conduct a risk assessment, an audit, or an evaluation or
187 complete a report of the state agency's information technology
188 program or related systems. Such documents would likely include
189 an analysis of the state agency's current information technology
190 program or systems which could clearly identify vulnerabilities
191 or gaps in current systems or processes and propose
192 recommendations to remedy identified vulnerabilities. The
193 disclosure of such portions of records would jeopardize the
194 information technology security of the state agency, and
195 compromise the integrity and availability of agency data and
196 information technology resources, which would significantly
197 impair the administration of governmental programs. It is
198 necessary that such portions of records be made confidential and
199 exempt from public records requirements in order to protect
200 agency technology systems, resources, and data. The Legislature
201 further finds that this public records exemption shall be given
202 retroactive application because it is remedial in nature.

203 Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ALAN HAYS
11th District

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

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

Memorandum

To: Senator David Simmons
Rules Committee
CC: John B. Phelps, Staff Director
Cissy DuBose, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 624- Public Records/State Agency Information Technology Security Programs

Date: December 2, 2015

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

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

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

Senate's Website: www.flsenate.gov

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)

1 / 14 / 2018

Meeting Date

Topic _____

Bill Number 624
(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.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 498

INTRODUCER: Senator Sobel

SUBJECT: Repeal of a Prohibition on Cohabitation

DATE: January 13, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>Sumner</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 498 repeals a provision in law which makes it a second degree misdemeanor for a man and woman to lewdly and lasciviously associate and cohabit together without being married to each other.

II. Present Situation:

Cohabitation Law in Florida

Florida law makes it a second degree misdemeanor for a man and woman to lewdly and lasciviously associate and cohabit together without being married to each other, or if married or unmarried engage in open and gross lewdness and lascivious behavior.¹ This law, originally enacted in 1868, made the crime of cohabitation punishable by up to 2 years in prison, up to 1 year in the county jail, or up to a \$300 fine. Somewhat similarly, s. 800.02, F.S., makes it a second degree misdemeanor for a person to engage in any unnatural and lascivious act with another person.

Cohabitation Law in other States

According to the National Conference of State Legislatures only three remaining states, Florida, Michigan, and Mississippi make cohabitation illegal. Eight states that once made cohabitation illegal have repealed cohabitation laws, one as recently as 2013.²

¹ Second degree misdemeanors are punishable by up to 60 days in jail and up to a \$500 fine. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

² E-mail from staff of the National Conference of State Legislatures (November 6, 2015) (on file with the Senate Committee on Judiciary).

States having Cohabitation Laws other than Florida

State	Statute	Language
Michigan	MCLA § 750.335	Any man or woman, not being married to each other, who shall lewdly and lasciviously associate and cohabit together, and any man or woman, married or unmarried, who shall be guilty of open and gross lewdness and lascivious behavior, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than \$500.00. No prosecution shall be commenced under this section after 1 year from the time of committing the offense.
Mississippi	97-29-1	If any man and woman shall unlawfully cohabit, whether in adultery or fornication, they shall be fined in any sum not more than five hundred dollars each, and imprisoned in the county jail not more than six months; and it shall not be necessary, to constitute the offense, that the parties shall dwell together publicly as husband and wife, but it may be proved by circumstances which show habitual sexual intercourse.

The following states have repealed laws which made cohabitation illegal: Arizona, Idaho, Maine, New Mexico, North Carolina, North Dakota, Virginia, and West Virginia.

III. Effect of Proposed Changes:

The bill repeals the crime of cohabitation, which makes it a second degree misdemeanor for a man and woman, lewdly and lasciviously to associate and cohabit together, without being married to each other.

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.

D. Other Constitutional Issues:

In 2006, in an unpublished opinion the Superior Court of Pender County, North Carolina struck down the State’s fornication law.³ The court held that the law, in prohibiting an unmarried man and a woman from cohabitating, violated the plaintiff’s substantive due

³ Section 14-184 NCGSA provided in part that “[I]f any man and woman, not being married to each other, shall lewdly and lasciviously associate, bed and cohabit together, they shall be guilty of a Class 2 misdemeanor.”

process right to liberty as explained in the U.S. Supreme Court case in *Lawrence v. Texas*.⁴ In that opinion Justice Kennedy quoted Justice Stevens' opinion in *Bowers v. Hardwick* which stated:

[I]ndividual decisions by married persons, concerning the intimacies of their physical relationship, even when not intended to produce offspring, are a form of "liberty" protected by the Due Process Clause of the Fourteenth Amendment. Moreover, this protection extends to intimate choices by unmarried as well as married persons.⁵

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 798.02 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.

⁴ *Lawrence v. Texas*, 123 S. Ct. 2472, 2483 (2003).

⁵ *Bowers v. Hardwick*, 478 U.S. 186, 216 (1986).

B. Amendments:

None.

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

By Senator Sobel

33-00401A-16

2016498__

1 A bill to be entitled
2 An act relating to the repeal of a prohibition on
3 cohabitation; amending s. 798.02, F.S.; deleting
4 provisions prohibiting cohabitation by unmarried men
5 and women; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 798.02, Florida Statutes, is amended to
10 read:

11 798.02 Lewd and lascivious behavior. ~~If any man and woman,~~
12 ~~not being married to each other, lewdly and lasciviously~~
13 ~~associate and cohabit together, or~~ If any man or woman, married
14 or unmarried, engages in open and gross lewdness and lascivious
15 behavior, they shall be guilty of a misdemeanor of the second
16 degree, punishable as provided in s. 775.082 or s. 775.083.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/14/201

Meeting Date

Topic _____

Bill Number 498
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

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.

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Health Policy, *Vice Chair*
Agriculture
Education Pre-K-12
Appropriations Subcommittee on Health
and Human Services

SENATOR ELEANOR SOBEL

33rd District

December 14, 2015

Senator David Simmons
Chair of Committee on Rules
402 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Simmons,

This letter is to request that **SB 498**, relating to a **Repeal of a Prohibition on Cohabitation**, be placed on the agenda of the next scheduled meeting of the Committee on Rules.

Thank you for your consideration of this request.

Respectfully,



Eleanor Sobel
State Senator, 33rd District

Cc: John Phelps, Cissy DuBose, Valerie Clarke, Diane Suddes, Carolyn Grzan

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7030

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Competitive Solicitation of Negotiation Strategies

DATE: January 13, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kim</u>	<u>McVaney</u>	<u>RC</u>	GO Submitted as Committee Bill
	<u>Kim</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 7030 continues the public records and public meetings exemptions for competitive solicitations used by governmental entities by removing the October 2, 2016, repeal date in each law.

Currently, section 119.071(1)(b), F.S., provides that sealed responses to a competitive solicitation are exempt from public inspection until an intended agency decision is noticed or 30 days after the responses are unsealed. Sealed responses to a competitive solicitation may be exempt under certain circumstances if a competitive solicitation is withdrawn and reissued; however, such records remain exempt for no longer than 12 months after the governmental entity rejected the responses to the initial competitive solicitation.

Currently, a governmental entity's negotiation team's strategy meetings and its team meetings with vendors may be closed to the public, pursuant to section 286.0113(2), F.S. Transcripts of these meetings and any records presented during such meetings are exempt from public inspection. All meeting records become public when the governmental entity notices its intended decision or 30 days after the governmental entity unseals the vendors' responses. If a competitive solicitation is withdrawn and reissued, the meeting records remain exempt under certain circumstances; however, the exemption expires 12 months after the governmental entity rejects the vendors' responses to the initial competitive solicitation.

Both the public records and meetings exemptions are currently scheduled to repeal on October 2, 2016.

Since the bill does not expand or create an exemption to the public records or public meetings laws, the bill requires a majority vote of each chamber for passage.

The bill takes effect on October 1, 2016.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

An exemption may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Meetings Laws

The Florida Constitution provides that the public has a right to access governmental meetings.¹⁵ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁶ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.¹⁷

The Florida Statutes also provide that governmental meetings must be open to the public. Section 286.011, F.S., which is also known as the ‘Government in the Sunshine Law,’¹⁸ or the ‘Sunshine Law’¹⁹ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²⁰ The board or commission must provide the public reasonable notice of such meetings.²¹ A failure to abide by open meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.²² The minutes of a board or commission meeting also must be made available to the public.²³ A public

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004). A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ FLA. CONST., art. I, s. 24(b).

¹⁶ FLA. CONST., art. I, s. 24(b).

¹⁷ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

¹⁸ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

¹⁹ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

²⁰ Section 286.011(1)-(2), F.S.

²¹ Section 268.011(1), F.S.

²² Section 286.011(1), F.S.

²³ Section 286.011(2), F.S.

officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁴

The Legislature may create an exemption to open meetings requirements.²⁵ An exemption must pass by a two-thirds vote of the House and the Senate.²⁶ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.²⁷ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁸

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records or open meetings exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended exemption.²⁹ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.³⁰ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:³¹

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?

²⁴ Section 286.011(3), F.S.

²⁵ FLA. CONST., art. I, s. 24(c).

²⁶ FLA. CONST., art. I, s. 24(c).

²⁷ FLA. CONST., art. I, s. 24(c).

²⁸ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

²⁹ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. Section 286.0111, F.S., and s. 119.15, F.S., provide that the OGSR provisions found in s. 119.15, F.S., apply to the open meetings requirements located in s. 286.011, F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

³⁰ Section 119.15(3), F.S.

³¹ Section 119.15(6)(a), F.S.

- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.³² If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt public records will remain exempt unless otherwise provided for by law.³³

Exemption Under Review: Competitive Solicitations Public Records and Public Meetings Exemptions

A state or local government (governmental entity) may procure goods or services through competitive solicitations. A competitive solicitation is the process of requesting and receiving sealed bids, proposals or replies in a competitive manner.³⁴ A governmental entity may issue different types of competitive solicitations, depending upon whether it is subject to state procurement laws or local ordinances. For example, a state level agency will issue an invitation to bid, a requests for proposals or an invitations to negotiate depending on the type of procurement.³⁵ Vendors may respond to the competitive solicitation by sending the state agency a sealed bid, proposal or reply. Depending on the type of competitive solicitation and the nature of the procurement, a lengthy process of evaluating responses and negotiations may ensue.

Competitive Solicitation Public Records Exemption

Public records exemptions related to competitive solicitations date back to 1985, and have been expanded or revised since then.³⁶ Currently, a vendor's sealed bids, proposals and replies are exempt from public records until the governmental entity provides a notice of its intended decision. An intended decision may include a situation when a team makes a determination of what constitutes the best vendor response, but the final decision is made by another entity, such as a board or an agency head, or when a final decision made at a later date.

The public records exemption also is in effect until 30 days after the governmental entity opens a vendor's final, sealed bid, proposal or reply. This scenario may include a situation when a governmental entity has opened the vendors' responses and the governmental entity evaluates the responses and makes an award. Negotiations can also continue to go forward after a governmental entity reviews the final sealed responses.

³² FLA. CONST., art. I, s. 24(c).

³³ Section 119.15(7), F.S.

³⁴ Section 119.071(1)(b)1., F.S. and s. 286.0113(2)(a), F.S.

³⁵ Section 284.012(16), F.S. provides that an invitation to bid is "a written or electronically posted solicitation for competitive sealed bids." A request for proposals is "a written or electronically posted solicitation for competitive sealed proposals," pursuant to s. 287.012(23), F.S. Section 284.012(17), F.S., provides that an invitation to negotiate is a "written or electronically posted solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services."

³⁶ Ch.1985-44, Laws of Fla.

In either case, the exemption ceases the earlier of when the notice of intended decision is published or when 30 days have lapsed since the response was unsealed.³⁷

After issuing a competitive solicitation and reviewing all the final responses, a governmental entity may also decide to reject all responses and reissue the solicitation. In that case, the sealed responses received during the initial competitive solicitation continue to remain exempt until one of the following events occur:

- The governmental entity provides a notice of intended decisions on the reissued competitive solicitation;
- The governmental entity withdraws the reissued competitive solicitation; or
- 12 months have lapsed since the governmental entity rejected all responses to its initial competitive solicitation.³⁸

Competitive Solicitations Public Meetings Exemption

The public meetings exemption for competitive solicitations was first enacted by Ch. 2006-284, Laws of Florida. Currently, the public meetings exemption provides that portions of competitive solicitation meetings are exempt under the following circumstances: during negotiations, when a vendor gives an oral presentation, or when a vendor answers a question.³⁹

In addition, any portion of a team meeting during which the governmental entity discusses its negotiation strategies are closed to the public.⁴⁰ A team is a group of people established by an agency for the purpose of negotiating for the agency during a competitive solicitation.⁴¹

In any of the above situations, the meeting must be recorded and no portion of the meeting may be off the record.⁴² Records presented at an exempt meeting and the recording of the meeting itself are exempt until the agency notices the intended decision or until 30 days after unsealing the final responses, whichever is earlier.⁴³

In the event that a governmental entity rejects all of the responses and reissues a competitive solicitation, the recording of the meeting and any records presented at an exempt meeting will continue to remain exempt. The exemption expires when any of the following events occur:

- A notice of intended decision for the reissued competitive solicitation is published;
- The agency withdraws the reissued competitive solicitation; or
- 12 months has passed since the initial competitive solicitation was issued.⁴⁴

Both the public records and meetings exemptions will sunset on October 2, 2016.

³⁷ Section 119.071(1)(b)2., F.S.

³⁸ Section 119.071(1)(b)2., F.S.

³⁹ Section 286.0113(2)(b)1., F.S.

⁴⁰ Section 286.0113(2)(b)2., F.S.

⁴¹ Section 286.0113(2)(a)2., F.S.

⁴² Section 287.0113(2)(c)1., F.S.

⁴³ Section 286.0113(2)(c)1., and 2., F.S.

⁴⁴ Section 286.0113(2)(c)3., F.S.

Review Findings and Recommendations

Senate and House professional staff met with state agencies, local government representatives and some vendors in accordance with the OGSR of the two exemptions.⁴⁵ State agencies, local government representatives, and some vendors agreed that the exemptions were necessary and beneficial for competitive solicitations and that the exemptions should be continued. Public records and meeting exemptions are beneficial for several reasons, some of which are:

- A vendor's competitors are not privy to a vendor's proposals,
- The exemptions result in more competition during negotiations, and thus a better value resulting from the procurement for the governmental entity,
- A governmental entity may require time to coordinate its responses especially when team members come from different agencies, and
- When clarification of terms or finalization of necessary documentation is still in progress.

Some agencies were concerned that the exemption periods were not long enough because information became public before negotiations were finalized. This may occur when there are a large number of vendor responses or the responses are highly technical and voluminous. Agencies also differed on what triggers the 30-day window before records are subject to public inspection.

Senate Governmental Operations and Accountability professional staff sent an email to state agencies requesting recommendations for amendments, but none were received.⁴⁶ The Florida Department of Law Enforcement and the Department of Agriculture and Consumer Services (DACS) affirmatively recommended that the exemptions be continued. DACS included the following explanation in its response:

The advantage of these exemptions to the state occurs when agencies are allowed to keep information that could benefit the state in negotiations confidential, including competitor's offers and responses, during the evaluation and negotiation process. This process puts the state's contract and project managers as well as the certified negotiators on a level playing field with vendors and their competitors. It also creates a level playing in the competitive solicitation process among the vendors and helps prevent

⁴⁵ Senate and House staff met with the following agencies and organizations during the OGSR review process: Department of Transportation (July 17, 2015); Department of Environmental Protection (July 17, 2015); Department of Management Services (July 23, 2015); Department of Financial Services (August 13, 2015); Florida Transportation Builders Association (September 9, 2015); Southern Strategies and IBM (September 15, 2015); and the Florida League of Cities and Florida Association of Counties (September 21, 2015).

⁴⁶ The letter, dated September 28, 2015, was emailed to the following agencies: Department of Business and Professional Regulation; Department of Children and Families; Department of Citrus; Department of Corrections; Department of Economic Opportunity; Department of Education; Department of Elder Affairs; Department of Environmental Protection; Fish and Wildlife Conservation Commission; Department of Health; Department of Juvenile Justice; Department of Management Services; Department of Military Affairs; Department of State; Department of Transportation; Agency for Health Care Administration; Agency for Persons with Disabilities; Office of the Attorney General Department of Legal Affairs; Chief Financial Officer; Department of Agriculture and Consumer Services; Department of Motor Vehicles; Department of Law Enforcement; Department of Revenue; Department of Veterans' Affairs; State Board of Administration; and Commission on Offender Review. The letter is on file with the Senate Committee on Governmental Oversight and Accountability.

vendors from gaining unfair advantages over other competitors... There is no harm to the general public with the exemptions contained in these statutes.⁴⁷

III. Effect of Proposed Changes:

The bill removes the scheduled repeal date of October 2, 2016, in both the public records exemption law and the public meetings exemption law. Effectively, the bill permits the public records and public meetings exemptions relating to agency competitive solicitations to continue as they currently exist.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

The bill does not expand the current exemptions, and therefore public necessity statements are not required. Since there is no expansion of the exemption, a simple majority vote is sufficient for passage.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Currently, agencies use the exemptions, and it is unlikely that the continuation of the exemptions will alter the private sector's business operations.

C. Government Sector Impact:

Indeterminate. Currently, agencies use the exemptions, and it is unlikely that the continuation of the exemptions will alter the agencies' operations.

⁴⁷ The email from Grace P. Lovett, Director of Legal Affairs, DACS, dated October 8, 2015, is on file with the Senate Committee on Governmental Oversight and Accountability.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 119.071(1)(b) and 286.0113(2).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability

585-01301-16

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A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S., which provides an exemption from public records requirements for bids, proposals, or replies submitted to an agency in response to a competitive solicitation; removing the scheduled repeal of the exemption; amending s. 286.0113, F.S., which provides an exemption from public meetings requirements for portions of meetings in which a vendor participates in a negotiation, makes an oral presentation, or answers questions as part of a competitive solicitation or in which negotiation strategies are discussed, and which provides an exemption from public records requirements for the recording of, and any records presented at, exempt portions of such meetings; removing the scheduled repeal of the exemptions; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(1) AGENCY ADMINISTRATION.—

(b)1. For purposes of this paragraph, “competitive solicitation” means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of

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procurement.

2. Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

3. If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

~~4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2016, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. Subsection (2) of section 286.0113, Florida Statutes, is amended to read:

286.0113 General exemptions from public meetings.—

(2) (a) For purposes of this subsection:

1. “Competitive solicitation” means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless

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59 of the method of procurement.

60 2. "Team" means a group of members established by an agency
61 for the purpose of conducting negotiations as part of a
62 competitive solicitation.

63 (b)1. Any portion of a meeting at which a negotiation with
64 a vendor is conducted pursuant to a competitive solicitation, at
65 which a vendor makes an oral presentation as part of a
66 competitive solicitation, or at which a vendor answers questions
67 as part of a competitive solicitation is exempt from s. 286.011
68 and s. 24(b), Art. I of the State Constitution.

69 2. Any portion of a team meeting at which negotiation
70 strategies are discussed is exempt from s. 286.011 and s. 24(b),
71 Art. I of the State Constitution.

72 (c)1. A complete recording shall be made of any portion of
73 an exempt meeting. No portion of the exempt meeting may be held
74 off the record.

75 2. The recording of, and any records presented at, the
76 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I
77 of the State Constitution until such time as the agency provides
78 notice of an intended decision or until 30 days after opening
79 the bids, proposals, or final replies, whichever occurs earlier.

80 3. If the agency rejects all bids, proposals, or replies
81 and concurrently provides notice of its intent to reissue a
82 competitive solicitation, the recording and any records
83 presented at the exempt meeting remain exempt from s. 119.07(1)
84 and s. 24(a), Art. I of the State Constitution until such time
85 as the agency provides notice of an intended decision concerning
86 the reissued competitive solicitation or until the agency
87 withdraws the reissued competitive solicitation. A recording and

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88 any records presented at an exempt meeting are not exempt for
89 longer than 12 months after the initial agency notice rejecting
90 all bids, proposals, or replies.

91 ~~(d) This subsection is subject to the Open Government~~
92 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
93 ~~repealed on October 2, 2016, unless reviewed and saved from~~
94 ~~repeal through reenactment by the Legislature.~~

95 Section 3. This act shall take effect October 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Children, Families, and Elder Affairs
Commerce and Tourism

SENATOR JEREMY RING
29th District

December 22, 2015

Honorable David Simmons
Committee on Rules
402 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Mr. Chairman,

I am writing to respectfully request your cooperation in placing Senate Bill 7030, relating to OGSR/Competitive Solicitation or Negotiation Strategies, on the Committee on Rules agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

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

Jeremy Ring
Senator District 29

cc: John B. Phelps, Staff Director
Cissy DuBose, Committee Administrative Assistant

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 308

INTRODUCER: Judiciary Committee; Criminal Justice Committee; and Senator Benacquisto

SUBJECT: Unattended Persons and Animals in Motor Vehicles

DATE: January 13, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Maida</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	<u>Cellon</u>	<u>Phelps</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 308 creates immunity from civil liability for property damage that may occur when an individual attempts to rescue a minor, elderly or disabled adult, or domestic animal from a motor vehicle.

In order to qualify for such immunity, the individual must:

- Determine that the vehicle is locked or there is no other reasonable method for the minor, elderly or disabled person, or animal to get out of the vehicle without help;
- Have a good faith and reasonable belief, based upon the known circumstances, that it is necessary to enter the vehicle because the minor, vulnerable adult, or animal is in imminent danger of suffering harm;
- Contact a law enforcement agency or 911 before entering the vehicle or immediately thereafter;
- Use no more force than necessary to make entry into the vehicle and remove the person or animal; and
- Stay with the person or animal in a safe location, in reasonable proximity to the vehicle, until a law enforcement officer or other first responder arrives.

II. Present Situation:

Current Law: The Good Samaritan Act

The “Good Samaritan Act,” codified in s. 768.13, F.S., provides immunity from civil liability for damages to any person who:

- Gratuitously and in good faith renders emergency care or treatment either in direct response to declared state emergencies or at the scene of an emergency situation, without objection of the injured victim, if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.¹
- Participates in emergency response activities of a community emergency response team if that person acts prudently and within the scope of his or her training.²
- Gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.³

The Good Samaritan Act, however, does not specifically address immunity from liability for property damage related to the forcible entry of a motor vehicle to rescue an endangered person or animal.

Legal Risks to Good Samaritans

Under current law, only law enforcement officers may use all reasonable means to protect minors and remove them from vehicles.⁴ Ordinary citizens lack this authority. In fact, individuals who forcibly enter motor vehicles for the purpose of rescuing an endangered person or animal do so at the risk of being held civilly liable for damages caused to the vehicle. Additionally, the motor vehicle owner may pursue a civil cause of action for trespass to personal property⁵ or conversion⁶ against the good Samaritan unless the good Samaritan’s actions are protected under the “Good Samaritan Act.” Further, the good Samaritan who enters another’s vehicle without permission could be charged with a criminal law violation such as trespass.⁷

¹ Section 768.13(2)(a), F.S.

² Section 768.13(2)(d), F.S.

³ Section 768.13(3), F.S.

⁴ See s. 316.6135, F.S.

⁵ Trespass to personal property, also known as trespass to chattels, is the intentional use of, or interference with, personal property which is in the possession of another without justification. The measure of damages is the value of the property at the time and place of the wrongful taking or removal. *Coddington v. Staab*, 716 So. 2d 850, 851 (Fla. 4th DCA 1998).

⁶ Conversion is an unauthorized act that deprives another of his or her property permanently or for an indefinite time. A defendant may be found liable for conversion if he or she deprived the plaintiff of his or her property by means of such an unauthorized act. The essence of conversion is the exercise of wrongful dominion or control over property to the detriment of the rights of the actual owner. It is interference with the legal rights that is incident to ownership, such as the right to possession. See *Fogade v. ENB Revocable Trust*, 263 F.3d 1274 (11th Cir. 2001); *Compania de Elaborados de Café v. Cardinal Capital Management, Inc.*, 401 F. Supp. 2d 1270 (S.D. Fla. 2003); *U.S. v. Bailey*, 288 F. Supp. 2d 1261 (M.D. Fla. 2003), *aff’d*, 419 F.3d 1208 (11th Cir. 2005).

⁷ See tampering or interfering with a motor vehicle under s. 860.17, F.S., or trespass in a conveyance under s. 810.08, F.S.

Vehicular Heatstroke

Since 1998, more than 660 children have died from vehicular heatstroke⁸ in the United States.⁹ Seventy two of those deaths, including 4 in 2015, occurred in Florida.¹⁰ Florida ranks second only behind Texas for the number of child vehicular stroke fatalities in the United States.¹¹ These tragic incidents are often caused when children are left unattended in a motor vehicle by a caregiver - intentionally or unintentionally - or become trapped while playing in an unlocked vehicle.¹²

Although outside temperatures may be mild or relatively cool, the interior temperatures of a motor vehicle can rise significantly and rapidly as the chart below shows.

Estimated Vehicle Interior Air Temperature v. Elapsed Time						
Elapsed time	Outside Air Temperature (F)					
	70	75	80	85	90	95
0 minutes	70	75	80	85	90	95
10 minutes	89	94	99	104	109	114
20 minutes	99	104	109	114	119	124
30 minutes	104	109	114	119	124	129
40 minutes	108	113	118	123	128	133
50 minutes	111	116	121	126	131	136
60 minutes	113	118	123	128	133	138
> 1 hour	115	120	125	130	135	140

Courtesy Jan Null, CCM: Department of Geosciences, San Francisco State University

The effect of such rapid and extreme temperature rise on infants and small children is often deadly because a child's body temperature heats up three to five times faster than that of an adult.¹³

In addition to fatalities involving children, 17 seniors have died of vehicular heatstroke in Florida since 2010.¹⁴ Elderly adults, disabled individuals, and pets left alone in a motor vehicle are at particular risk of succumbing to vehicular heatstroke, as these groups of individuals may be

⁸ Hyperthermia is the condition of having an abnormally high body temperature caused by a failure of the thermoregulation mechanisms of the body to dissipate more heat than it absorbs from the environment. Heat fatigue, heat syncope (sudden dizziness after prolonged exposure to the heat), heat cramps, heat exhaustion, and heat stroke are commonly known forms of hyperthermia. NATIONAL INSTITUTES OF HEALTH, *Hyperthermia: too hot for your health* (June 27, 2012), <http://www.nih.gov/news/health/jun2012/nia-27.htm>.

⁹ Jan Null, *Heatstroke Deaths of Children in Vehicles*, Department of Meteorology & Climate Science, San Jose State University, <http://noheatstroke.org> (last visited November 5, 2015).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* From 1998 through 2014, a total of 636 infants and children died of heatstroke inside motor vehicles. 338, or 53%, of these were forgotten by a parent or other caregiver. Of these 338, 98 were linked to the mother and 115 to the father. *See also* Alan G. Breed, *Sentences Vary When Kids Die in Hot Cars*, THE WASHINGTON POST, July 29, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/07/28/AR2007072800644.html>.

¹³ Trisha Corinth, *Children left in cars can die of heatstroke in minutes*, AMERICAN ACADEMY OF PEDIATRICS (July 27, 2015), available at: <http://aapnews.aapublications.org/content/36/8/33.4.full>.

¹⁴ Dan Sweeney, *Bill shielding good Samaritans passes committee*, SUN SENTINEL, Oct. 20, 2015, <http://www.sun-sentinel.com/news/florida/fl-breaking-into-hot-cars-bill-20151020-story.html>.

unable to open car doors or express discomfort verbally (or audibly, inside a closed car). They also may suffer from existing health issues.¹⁵

III. Effect of Proposed Changes:

The bill creates s. 768.139, F.S., to protect persons who are acting as good Samaritans from civil liability for any damage resulting from their entry into a motor vehicle to remove a minor, elderly or disabled person, or domestic animal.

To act with immunity from civil liability, the person must:

- Determine that the vehicle is locked or there is no other reasonable method for the minor, elderly or disabled person, or animal to get out of the vehicle without help;
- Have a good faith and reasonable belief, based upon the known circumstances, that it is necessary to enter the vehicle because the minor, vulnerable adult, or animal is in imminent danger of suffering harm;
- Contact a law enforcement agency before entering the vehicle or immediately thereafter;
- Use no more force than necessary to make entry into the vehicle and remove the person or animal; and
- Stay with the person or animal in a safe location, in reasonable proximity to the vehicle, until a law enforcement officer or other first responder arrives.

The bill provides definitions for the following terms used in the bill:

- “Domestic animal” is a dog, cat, or other animal that is domesticated and may be kept as a household pet, but not livestock or other farm animals.
- “Vulnerable person” means:
 - A vulnerable adult.¹⁶
 - A minor.

Although not specified in the bill, the term “minor” is generally defined as any person who has not attained the age of 18 years.¹⁷ “Motor vehicle” is defined by reference to s. 320.01, F.S.¹⁸

¹⁵ See also Weather.com, What the Heat Can Mean to Your Dog – Heat Stroke Can Be Fatal. Findout! (Jan. 25, 2015), <http://www.weather.com/safety/heat/news/police-dog-deaths-hot-car> and Weather.com, 11 Police Dogs Have Died of Heat Exhaustion This Summer; 9 We Left in Hot Patrol Cars (Aug. 17, 2015), <http://www.weather.com/pets/news/dog-heat-stroke-20120420>.

¹⁶ Section 415.102, F.S., defines the term “vulnerable adult” as:
a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

¹⁷ Section 101(13), F.S.

¹⁸ Section 320.01(1), F.S., defines the term “motor vehicle” as:

(a) An automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, special mobile equipment as defined in s. 316.003(48), vehicles that run only upon a track, bicycles, swamp buggies, or mopeds.

(b) A recreational vehicle-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

Good Samaritans who enter a motor vehicle to rescue an endangered person or animal may be subject to criminal penalty for tampering or interfering with a motor vehicle under s. 860.17, F.S., or trespass in a conveyance under s. 810.08, F.S. The immunity provided by the bill does not appear to absolve a good Samaritan of any potential criminal liability in such cases.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill has an indeterminate¹⁹ financial impact on motor vehicle owners and insurance companies. Generally, “other than collision”²⁰ automobile insurance, also known as “comprehensive coverage,” covers intentional damage to a motor vehicle by a third party. If insured, the motor vehicle owner is responsible for the cost of repair up to the amount of the policy deductible.²¹ The remaining cost is paid by the insurance company pursuant

¹⁹The extent and cost of the damage caused by a good Samaritan who is immune under the bill will depend upon the specific circumstances of the event as well as the age, make, and model of the motor vehicle. However, one of the most common methods of forcible entry into a motor vehicle in such cases, breaking a car window, typically involves damages of several hundred dollars. See Safelite AutoGlass, Quick Quote, <https://www.safelite.com/auto-glass-repair-replacement-cost/> (last visited November 6, 2015).

²⁰ This form of coverage, available under a personal automobile policy, provides a form of “all risks” protection for damage to a covered auto from perils other than collision. Losses include, but are not limited to, fire, theft or larceny, explosion or earthquake, windstorm, hail, water, flood, malicious mischief, vandalism, riot, contact with an animal, and glass breakage. This protection is sometimes referred to as “comprehensive coverage.” Insurance Risk Management Institute, other-than-collision coverable <https://www.irmi.com/online/insurance-glossary/terms/o/other-than-collision-coverage.aspx> (last visited October 13, 2015).

²¹ If the damage occurs to the windshield of the motor vehicle, the motor vehicle owner is not required to pay the deductible in order to obtain the benefits of comprehensive coverage. Section 627.7288, F.S.

to the terms of the policy. If uninsured, the motor vehicle owner must pay the entire cost to repair any damage.

Under current law, a motor vehicle owner and an insurance company, as a subrogee²² to all of the insured's rights to recovery, may recover his or her respective costs from the party that caused the damage. The immunity provided by this bill prevents the motor vehicle owner and the insurance company from recovering such costs.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill lists five criteria that determine whether a person is entitled to immunity from civil liability for damages to a motor vehicle caused during the attempted rescue of a domestic animal or vulnerable adult. The specific wording of the bill implies but does not directly state that the person must satisfy all five criteria to be immune. If the Legislature intends to require a person to satisfy all five criteria, it may wish to revise the bill to more clearly reflect that intent.

However, a rescuer who is not familiar with the five criteria set forth in the bill may be at risk for damages for actions taken in good faith to rescue a vulnerable person or domestic animal. As such, the Legislature may wish to consider revising the bill to state that the immunity granted by the bill applies to a person who substantially complies with the five criteria or otherwise acts in good faith and reasonably under the circumstances.

VIII. Statutes Affected:

This bill creates section 768.139 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Judiciary on December 1, 2015:

Revises the definition of “Vulnerable person” to the definition contained in s. 435.02, F.S. Additionally, the committee substitute extends to a good Samaritan the option of calling 911 in lieu of contacting law enforcement in order to preserve his or her immunity.

²² Black's Law Dictionary (10th ed. 2014) defines subrogation as “the principle under which an insurer [the subrogee] that has paid a loss under an insurance policy is entitled to all the rights and remedies belonging to the insured [the subrogor] with respect to any loss covered by the policy.”

CS by Criminal Justice on November 17, 2015:

Reorganizes the substance of the bill and places it in a new section of the Florida Statutes.

B. Amendments:

None.

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

By the Committees on Judiciary; and Criminal Justice; and
Senator Benacquisto

590-01779-16

2016308c2

1 A bill to be entitled
2 An act relating to unattended persons and animals in
3 motor vehicles; creating s. 768.139, F.S.; providing
4 definitions; providing immunity from civil liability
5 for entry into a motor vehicle related to the rescue
6 of a person or an animal under certain circumstances;
7 providing applicability; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Section 768.139, Florida Statutes, is created to
12 read:
13 768.139 Rescue of vulnerable person or domestic animal from
14 a motor vehicle; immunity from civil liability.—
15 (1) DEFINITIONS.—As used in this section, the term:
16 (a) "Domestic animal" means a dog, cat, or other animal
17 that is domesticated and may be kept as a household pet. The
18 term does not include livestock or other farm animals.
19 (b) "Motor vehicle" has the same meaning as provided in s.
20 320.01.
21 (c) "Vulnerable person" has the same meaning as provided in
22 s. 435.02.
23 (2) IMMUNITY FOR DAMAGE TO MOTOR VEHICLE.—A person who
24 enters a motor vehicle, by force or otherwise, for the purpose
25 of removing a vulnerable person or domestic animal is immune
26 from civil liability for damages to the motor vehicle if the
27 person:
28 (a) Determines the motor vehicle is locked or there is
29 otherwise no reasonable method for the vulnerable person or

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590-01779-16

2016308c2

30 domestic animal to exit the motor vehicle without assistance.
31 (b) Has a good faith and reasonable belief, based upon the
32 known circumstances, that entry into the motor vehicle is
33 necessary because the vulnerable person or domestic animal is in
34 imminent danger of suffering harm.
35 (c) Ensures that law enforcement is notified or 911 is
36 called before entering the motor vehicle or immediately
37 thereafter.
38 (d) Uses no more force to enter the motor vehicle and
39 remove the vulnerable person or domestic animal than is
40 necessary.
41 (e) Remains with the vulnerable person or domestic animal
42 in a safe location, in reasonable proximity to the motor
43 vehicle, until law enforcement or other first responder arrives.
44 (3) APPLICABILITY.—This section does not limit or expand
45 any immunity provided under s. 768.13 for the care or treatment
46 of the vulnerable person or domestic animal.
47 Section 2. This act shall take effect upon becoming a law.

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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)

1 / 14 / 2016

Meeting Date

Topic _____

Bill Number 308
(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

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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

01-14-16

Meeting Date

5B-0308

Bill Number (if applicable)

Topic UNATTENDED PERSONS AND ANIMALS IN MOTOR VEH.

Amendment Barcode (if applicable)

Name RAY ALMODOVAR

Job Title CAPTAIN - VOLUSIA COUNTY SHERIFFS OFFICE

Address 123 W. INDIANA AVE

Phone 386-736-5961

Street

DELAND

FL

32725

Email PALMODOVAR@VCSO.US

City

State

Zip

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)

1/14/16
Meeting Date

308
Bill Number (if applicable)

Topic Unattended Persons in Motor Vehicles

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 345 W Madison St

Phone 850-224-7333

Street

Tallahassee

FL

State

34 32301

Zip

Email RoccoSalvatori@icloud.com

City

Speaking: For Against Information

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

Representing Florida Professional Firefighters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 Rules

BILL: CS/SB 458

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Transfers of Structured Settlement Payment Rights

DATE: January 13, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Maida</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
3.	<u>Maida</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 458 revises the law governing the sale or transfer of the right to receive payments under a structured settlement agreement. A structured settlement agreement is an arrangement for the periodic payment of damages for personal injuries in connection with a tort claim or personal injury lawsuit. The purpose of existing law is to protect the recipients of structured settlements, and the law provides procedures for courts to approve the transfer of the right to receive payments under a structured settlement agreement.

The changes made by the bill:

- Specify that the court having jurisdiction over an application to transfer structured settlement payment rights is the court where the payee resides or, if the payee does not reside in this state, the court that approved the structured settlement agreement or the court in which a claim was pending which led to the structured settlement agreement.
- Require an applicant seeking to receive the payments under a structured settlement agreement to provide additional information about the payee in its application to the court.
- Require the payee to appear in court for the hearing on the application unless good cause exists to excuse the payee's attendance.
- Grant immunity to structured settlement obligors and annuity issuers that act in reliance on court orders approving the transfer of a structured settlement agreement.
- Make structured settlement obligors and annuity issuers immune from liability for a transferee's failure to provide required disclosures to the payee or to provide all the required information in its application to the court.

- Allow the transfer of structured settlement payments notwithstanding the terms of a structured settlement agreement prohibiting those transfers.

II. Present Situation:

A structured settlement is an agreement for the periodic payment of damages for personal injuries, the payments of which are established by a settlement or judgment in resolution of a tort claim.¹ This arrangement typically involves one party paying a lump-sum premium to an insurance company to purchase an annuity in the name of the injured victim (the payee). Once the annuity is purchased, the insurance company begins to make periodic payments to the payee for a negotiated period of time. In addition to the long-term financial stability this may provide the payee, structured settlement payments confer tax benefits on their beneficiaries² and annuity issuers.³

Instead of making the payments itself, the insurance company may instead decide to assign its payment obligations to a structured settlement company. In exchange for accepting its new payment obligations, the structured settlement company typically receives from the insurance company a lump-sum payment equivalent to the present value of all future payments owed to the payee.⁴ In order to obtain the necessary liquidity to make its newly-obligated periodic payments, the structured settlement company may use this lump-sum to purchase an annuity from a life insurance company.⁵

The payee's financial circumstances may change. For example, the payee's periodic payments may be insufficient to pay for an immediate, large financial need. As such, instead of receiving payments under a structured settlement plan, the payee may wish to transfer his or her rights to payments to another organization—known as a transferee—in exchange for a lump sum.⁶ In 2001, the Legislature created s. 626.99296, F.S., to protect recipients of structured settlements during the transfer process.⁷ Fundamentally, the statute requires such transfers to receive prior court approval.⁸ This approval must be conditioned upon statutorily-enumerated factors, including an explicit finding by the court that the transfer is “in the best interests of the” individual opting to sell his or her settlement rights in order to receive a lump sum.⁹ Under existing law, an entity contracting to receive structured settlement rights must file an application with the court at least 20 days before the application hearing¹⁰ and make a series of disclosures to

¹ See s. 626.99296(m), F.S.

² 26 U.S.C. § 104 (providing that, for taxation purposes, gross income does not include the amount of damages received on account of personal physical injuries or physical sickness); s. 626.99296(2)(j), F.S. (defining “payee” as an individual receiving tax-free damage payments under a structured settlement).

³ See 26 U.S.C. § 130; *First Providian, LLC v. Evans*, 852 So. 2d 908 (Fla. 4th DCA 2003).

⁴ Gregg D. Polksy and Brant J. Hellwig, *Taxing Structured Settlements*, 51 B.C. L. REV. 39, 41-2 (January 2010).

⁵ *Id.*

⁶ See, e.g., *First Providian, LLC v. Evans*, 852 So. 2d 908 (Fla. 4th DCA 2003).

⁷ Section 626.99296, F.S.

⁸ *Id.* at subsection (3); *Rapid Settlements, Ltd. v. Dickerson*, 941 So. 2d 1275, 1276-77 (Fla. 4th DCA 2006) (affirming lower court decision to deny petition, noting that “[t]ransfers of structured settlement rights are regulated by statute and court approval is required before a transfer may go forward.”).

⁹ Section 626.99296(3), F.S.

¹⁰ *Id.* at subsection (4).

the would-be payee.¹¹ One of the required disclosures is the “quotient” of the transaction.¹² The “quotient” is described by statute as “a percentage, obtained by dividing the net payment amount by the discounted present value of the payments.”¹³

Despite the requirement that a structured settlement transfer occur or not occur under the supervision of a court, forum shopping¹⁴ is not expressly prohibited by Florida’s structured settlement transfer law.¹⁵ This could result in a transferee obtaining a settlement transfer venue with greater ties to the transferee, as opposed to the payee.

III. Effect of Proposed Changes:

This bill makes the following changes to the laws governing the transfer of a structured settlement agreement:

- Eliminates the requirement that the transferee disclose to the payee the “quotient” of the transaction.
- Provides venue certainty and prevents “forum shopping” by requiring structured settlement transfer applications to be made in the circuit court of the county where the payee is located. If the payee is not domiciled in Florida, the application may be filed in the Florida court that approved the initial structured settlement agreement, or the court where the original claim was pending when the parties entered into their settlement.
- Provides additional information to the court by requiring the payee to appear personally in court during the application hearing. Further, the bill requires that additional information be provided on the transferee’s application. This includes the payee’s age, number and ages of the payee’s dependents, and additional financial history of the payee.
- Provides that, upon a court order approving the settlement transfer, both settlement obligors and annuity issuers may rely on the court’s order in redirecting future structured settlement payments and are released from liability as to all parties to the settlement except for the transferee and the transferee’s potential future assignee.¹⁶
- Confirms that, regardless of any anti-assignment language in the original structured settlement agreement, the parties to the agreement may waive or assert their rights, and the court can safely construe the anti-assignment language and apply the law to such situations.
- Eliminates the requirement that the transferee provide written notice of its name and Tax ID number to other parties to the transaction as the federal tax code does not require the submission of this information to the Internal Revenue Service.¹⁷

¹¹ *Id.* at subsection (3).

¹² *Id.*

¹³ *Id.*

¹⁴ *See, e.g., Kelly McGann, It’s My Money and I Want it Now, Your Honor*, 48 MD. B.J. 36, 39-40 (May/June 2015).

¹⁵ Section 626.99296, F.S., is silent as to which court—or venue—the initial settlement transfer petition must be filed.

¹⁶ *Compare Fla R. Civ. P 1.1540(b)* which states that a judgment may be set aside for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) that the judgment or decree is void; or (5) that the judgment or decree has been satisfied, released, or discharged, or a prior judgment or decree upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment or decree should have prospective application.

¹⁷ 26 U.S.C. Sec. 5891(d).

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in more favorable terms for payees who seek to sell the right to payments under their structured settlement agreements. This result may occur because courts will have more information about payees and because payees will generally be required to attend court hearings on applications to transfer structured settlement payment rights.

The bill will also increase the marketability of structured settlement payment rights by ensuring that structured settlement obligors and annuity issuers have no liability for acting in reliance on court orders approving the transfer of a structured settlement.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 626.99296 of the Florida Statutes.

IX. Additional Information:

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

CS by Banking and Insurance on December 1, 2015:

- Makes stylistic changes to the underlying bill.
- Deletes a requirement that the transferee provide written notice of its name and Tax ID number to other parties to the transaction as the federal tax code no longer requires the submission of this information to the Internal Revenue Service.

- B. **Amendments:**

None.

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

By the Committee on Banking and Insurance; and Senator Richter

597-01759-16

2016458c1

1 A bill to be entitled
 2 An act relating to transfers of structured settlement
 3 payment rights; amending s. 626.99296, F.S.; revising
 4 definitions; revising specified disclosures and
 5 notices that are or may be required to be given in
 6 order to effect transfers of structured settlement
 7 payment rights and payments under such rights;
 8 revising the time limit by which a written response to
 9 an application for transferring such rights must be
 10 filed; specifying requirements for the filing and
 11 contents of the application; requiring the court to
 12 hold a hearing on the application; requiring a payee
 13 to appear in person unless the court determines that
 14 good cause exists to excuse the payee; providing that
 15 the transferee is solely responsible for compliance
 16 with certain requirements; providing that following
 17 issuance of a court order approving the transfer, the
 18 structured settlement obligor and annuity issuer may
 19 rely on the order in redirecting certain payments and
 20 are released and discharged from certain liability;
 21 providing for construction if the terms of the
 22 structured settlement prohibit transfer for payment
 23 rights; conforming provisions to changes made by the
 24 act; making technical changes; providing an effective
 25 date.
 26
 27 Be It Enacted by the Legislature of the State of Florida:
 28
 29 Section 1. Section 626.99296, Florida Statutes, is amended

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

597-01759-16

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30 to read:
 31 626.99296 Transfers of structured settlement payment
 32 rights.—
 33 (1) PURPOSE.—The purpose of this section is to protect
 34 recipients of structured settlements who are involved in the
 35 process of transferring structured settlement payment rights.
 36 (2) DEFINITIONS.—As used in this section, the term:
 37 (a) "Annuity issuer" means an insurer that has issued an
 38 annuity contract to be used to fund periodic payments under a
 39 structured settlement.
 40 (c) ~~(b)~~ "Applicable law" means any of the following, as
 41 applicable in interpreting the terms of a structured settlement:
 42 1. The laws of the United States;
 43 2. The laws of this state, including principles of equity
 44 applied in the courts of this state; and
 45 3. The laws of any other jurisdiction:
 46 a. That is the domicile of the payee ~~or any other~~
 47 ~~interested party~~;
 48 b. Under whose laws a structured settlement agreement was
 49 approved by a court; or
 50 c. In whose courts a settled claim was pending when the
 51 parties entered into a structured settlement agreement.
 52 (b) ~~(e)~~ "Applicable federal rate" means the most recently
 53 published applicable rate for determining the present value of
 54 an annuity, as issued by the United States Internal Revenue
 55 Service pursuant to s. 7520 of the United States Internal
 56 Revenue Code, as amended.
 57 (d) "Assignee" means any party that acquires structured
 58 settlement payment rights directly or indirectly from a

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59 transferee of such rights.

60 (e) "Dependents" means a payee's spouse and minor children
61 and all other family members and other persons for whom the
62 payee is legally obligated to provide support, including spousal
63 maintenance.

64 (f) "Discount and finance charge" means the sum of all
65 charges that are payable directly or indirectly from assigned
66 structured settlement payments and imposed directly or
67 indirectly by the transferee and that are incident to a transfer
68 of structured settlement payment rights, including:

69 1. Interest charges, discounts, or other compensation for
70 the time value of money;

71 2. All application, origination, processing, underwriting,
72 closing, filing, and notary fees and all similar charges,
73 however denominated; and

74 3. All charges for commissions or brokerage, regardless of
75 the identity of the party to whom such charges are paid or
76 payable.

77
78 The term does not include any fee or other obligation incurred
79 by a payee in obtaining independent professional advice
80 concerning a transfer of structured settlement payment rights.

81 (g) "Discounted present value" means, with respect to a
82 proposed transfer of structured settlement payment rights, the
83 fair present value of future payments, as determined by
84 discounting the payments to the present using the most recently
85 published applicable federal rate as the discount rate.

86 (h) "Independent professional advice" means advice of an
87 attorney, certified public accountant, actuary, or other

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88 licensed professional adviser:

89 1. Who is engaged by a payee to render advice concerning
90 the legal, tax, and financial implications of a transfer of
91 structured settlement payment rights;

92 2. Who is not in any manner affiliated with or compensated
93 by the transferee of the transfer; and

94 3. Whose compensation for providing the advice is not
95 affected by whether a transfer occurs or does not occur.

96 (i) "Interested parties" means:

97 1. The payee;

98 2. Any beneficiary irrevocably designated under the annuity
99 contract to receive payments following the payee's death or, if
100 such designated beneficiary is a minor, the designated
101 beneficiary's parent or guardian;

102 3. The annuity issuer;

103 4. The structured settlement obligor; or

104 5. Any other party to the structured settlement who has
105 continuing rights or obligations to receive or make payments
106 under the structured settlement.

107 (j) "Payee" means an individual who is receiving tax-free
108 damage payments under a structured settlement and proposes to
109 make a transfer of payment rights under the structured
110 settlement.

111 (k) "Qualified assignment agreement" means an agreement
112 providing for a qualified assignment, as authorized by 26 U.S.C.
113 s. 130 of the United States Internal Revenue Code, as amended.

114 (l) "Settled claim" means the original tort claim resolved
115 by a structured settlement.

116 (m) "Structured settlement" means an arrangement for

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117 periodic payment of damages for personal injuries established by
118 settlement or judgment in resolution of a tort claim.

119 (n) "Structured settlement agreement" means the agreement,
120 judgment, stipulation, or release embodying the terms of a
121 structured settlement, including the rights of the payee to
122 receive periodic payments.

123 (o) "Structured settlement obligor" means the party who is
124 obligated to make continuing periodic payments to the payee
125 under a structured settlement agreement or a qualified
126 assignment agreement.

127 (p) "Structured settlement payment rights" means rights to
128 receive periodic payments, including lump-sum payments under a
129 structured settlement, whether from the structured settlement
130 obligor or the annuity issuer, if:

131 1. The payee ~~or any other interested party~~ is domiciled in
132 this state;

133 2. The structured settlement agreement was approved by a
134 court of this state; or

135 3. The settled claim was pending before the courts of this
136 state when the parties entered into the structured settlement
137 agreement.

138 (q) "Terms of the structured settlement" means the terms of
139 the structured settlement agreement; the annuity contract; a
140 qualified assignment agreement; or an order or approval of a
141 court or other government authority authorizing or approving the
142 structured settlement.

143 (r) "Transfer" means a sale, assignment, pledge,
144 hypothecation, or other form of alienation or encumbrance made
145 by a payee for consideration.

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146 (s) "Transfer agreement" means the agreement providing for
147 transfer of structured settlement payment rights from a payee to
148 a transferee.

149 (t) "Transferee" means a person who is receiving or who
150 will receive structured settlement payment rights resulting from
151 a transfer.

152 (3) CONDITIONS TO TRANSFERS OF STRUCTURED SETTLEMENT
153 PAYMENT RIGHTS AND STRUCTURED SETTLEMENT AGREEMENTS.—

154 (a) A direct or indirect transfer of structured settlement
155 payment rights is not effective and a structured settlement
156 obligor or annuity issuer is not required to make a payment
157 directly or indirectly to a transferee or assignee of structured
158 settlement payment rights unless the transfer is authorized in
159 advance in a final order by a court of competent jurisdiction
160 which is based on the written express findings by the court
161 that:

162 1. The transfer complies with this section and does not
163 contravene other applicable law;

164 2. At least 10 days before the date on which the payee
165 first incurred an obligation with respect to the transfer, the
166 transferee provided to the payee a disclosure statement in bold
167 type, no smaller than 14 points in size, which specifies:

168 a. The amounts and due dates of the structured settlement
169 payments to be transferred;

170 b. The aggregate amount of the payments;

171 c. The discounted present value of the payments, together
172 with the discount rate used in determining the discounted
173 present value;

174 d. The gross amount payable to the payee in exchange for

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175 the payments;

176 e. An itemized listing of all brokers' commissions, service
177 charges, application fees, processing fees, closing costs,
178 filing fees, referral fees, administrative fees, legal fees, and
179 notary fees and other commissions, fees, costs, expenses, and
180 charges payable by the payee or deductible from the gross amount
181 otherwise payable to the payee;

182 f. The net amount payable to the payee after deducting all
183 commissions, fees, costs, expenses, and charges described in
184 sub-subparagraph e.;

185 g. ~~The quotient, expressed as a percentage, obtained by~~
186 ~~dividing the net payment amount by the discounted present value~~
187 ~~of the payments, which must be disclosed in the following~~
188 ~~statement: "The net amount that you will receive from us in~~
189 ~~exchange for your future structured settlement payments~~
190 ~~represent ... percent of the estimated current value of the~~
191 ~~payments based upon the discounted value using the applicable~~
192 ~~federal rate";~~

193 h. The effective annual interest rate, which must be
194 disclosed in the following statement: "Based on the net amount
195 that you will receive from us and the amounts and timing of the
196 structured settlement payments that you are turning over to us,
197 you will, in effect, be paying interest to us at a rate of ...
198 percent per year"; and

199 ~~h.i.~~ The amount of any penalty and the aggregate amount of
200 any liquidated damages, including penalties, payable by the
201 payee in the event of a breach of the transfer agreement by the
202 payee;

203 3. The payee has established that the transfer is in the

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204 best interests of the payee, taking into account the welfare and
205 support of the payee's dependents;

206 4. The payee has received, or waived in writing his or her
207 right to receive, independent professional advice regarding the
208 legal, tax, and financial implications of the transfer;

209 ~~5. The transferee has given written notice of the~~
210 ~~transferee's name, address, and taxpayer identification number~~
211 ~~to the annuity issuer and the structured settlement obligor and~~
212 ~~has filed a copy of the notice with the court;~~

213 ~~5.6.~~ The transfer agreement provides that if the payee is
214 domiciled in this state, any disputes between the parties will
215 be governed in accordance with the laws of this state and that
216 the domicile state of the payee is the proper venue to bring any
217 cause of action arising out of a breach of the agreement; and

218 ~~6.7.~~ The court has determined that the net amount payable
219 to the payee is fair, just, and reasonable under the
220 circumstances then existing.

221 (b) If a proposed transfer would contravene the terms of
222 the structured settlement, upon the filing of a written
223 objection by any interested party and after considering the
224 objection and any response to it, the court may grant, deny, or
225 impose conditions upon the proposed transfer which the court
226 deems just and proper given the facts and circumstances and in
227 accordance with established principles of law. Any order
228 approving a transfer must require that the transferee indemnify
229 the annuity issuer and the structured settlement obligor for any
230 liability, including reasonable costs and attorney attorney's
231 fees, which arises from compliance by the issuer or obligor with
232 the order of the court.

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233 (c) Any provision in a transfer agreement which gives a
 234 transferee power to confess judgment against a payee is
 235 unenforceable to the extent that the amount of the judgment
 236 would exceed the amount paid by the transferee to the payee,
 237 less any payments received from the structured settlement
 238 obligor or payee.

239 (d) In negotiating a structured settlement of claims
 240 brought by or on behalf of a claimant who is domiciled in this
 241 state, the structured settlement obligor must disclose in
 242 writing to the claimant or the claimant's legal representative
 243 all of the following information that is not otherwise specified
 244 in the structured settlement agreement:

- 245 1. The amounts and due dates of the periodic payments to be
 246 made under the structured settlement agreement. In the case of
 247 payments that will be subject to periodic percentage increases,
 248 the amounts of future payments may be disclosed by identifying
 249 the base payment amount, the amount and timing of scheduled
 250 increases, and the manner in which increases will be compounded;
- 251 2. The amount of the premium payable to the annuity issuer;
- 252 3. The discounted present value of all periodic payments
 253 that are not life-contingent, together with the discount rate
 254 used in determining the discounted present value;
- 255 4. The nature and amount of any costs that may be deducted
 256 from any of the periodic payments; and
- 257 5. Where applicable, that any transfer of the periodic
 258 payments is prohibited by the terms of the structured settlement
 259 and may otherwise be prohibited or restricted under applicable
 260 law; ~~and~~
- 261 ~~6. That any transfer of the periodic payments by the~~

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262 ~~claimant may subject the claimant to serious adverse tax~~
 263 ~~consequences.~~

264 (4) VENUE JURISDICTION; PROCEDURE FOR APPROVAL OF
 265 TRANSFERS; CONTENTS OF APPLICATION.—

266 (a) At least 20 days before the scheduled hearing on an
 267 application for authorizing a transfer of structured settlement
 268 payment rights under this section, the transferee must file with
 269 the court and provide to all interested parties a notice of the
 270 proposed transfer and the application for its authorization. The
 271 notice must include:

- 272 1. (a) A copy of the transferee's application to the court;
- 273 2. (b) A copy of the transfer agreement;
- 274 3. (c) A copy of the disclosure statement required under
 275 subsection (3);
- 276 4. (d) Notification that an interested party may support,
 277 oppose, or otherwise respond to the transferee's application, in
 278 person or by counsel, by submitting written comments to the
 279 court or by participating in the hearing; and
- 280 5. (e) Notification of the time and place of the hearing and
 281 notification of the manner in which and the time by which any
 282 written response to the application must be filed in order to be
 283 considered by the court. A written response to an application
 284 must be filed no later than 5 ~~within 15~~ days before the date
 285 after service of the scheduled hearing in order to be considered
 286 by the court ~~transferee's notice~~.
- 287 (b) An application must be made by the transferee and filed
 288 in the circuit court of the county where the payee is domiciled.
 289 However, if the payee is not domiciled in this state, the
 290 application may be filed in the court in this state which

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291 approved the structured settlement agreement or in the court
 292 where the settled claim was pending when the parties entered
 293 into the structured settlement.

294 (c) The court shall hold a hearing on the application. The
 295 payee shall appear in person at the hearing unless the court
 296 determines that good cause exists to excuse the payee from
 297 appearing.

298 (d) In addition to complying with the other requirements of
 299 this section, the application must include:

300 1. The payee's name, age, and county of domicile and the
 301 number and ages of the payee's dependents;

302 2. A copy of the transfer agreement;

303 3. A copy of the disclosure statement required under
 304 subsection (3);

305 4. An explanation of reasons as to why the payee is seeking
 306 approval of the proposed transfer; and

307 5. A summary of each of the following:

308 a. Any transfers by the payee to the transferee or an
 309 affiliate, or through the transferee or an affiliate to an
 310 assignee, within the 4 years preceding the date of the transfer
 311 agreement.

312 b. Any transfers within the 3 years preceding the date of
 313 the transfer agreement made by the payee to any person or entity
 314 other than the transferee or an affiliate, or an assignee of a
 315 transferee or an affiliate, to the extent such transfers were
 316 disclosed to the transferee by the payee in writing or are
 317 otherwise actually known by the transferee.

318 c. Any proposed transfers by the payee to the transferee or
 319 an affiliate, or through the transferee or an affiliate to an

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320 assignee, for which an application was denied within the 2 years
 321 preceding the date of the transfer agreement.

322 d. Any proposed transfers by the payee to any person or
 323 entity other than the transferee, or an assignee of a transferee
 324 or an affiliate, to the extent such proposed transfers were
 325 disclosed to the transferee by the payee in writing or are
 326 otherwise actually known by the transferee, for which
 327 applications were denied within the year preceding the date of
 328 the transfer agreement.

329 (5) WAIVER PROHIBITED; NO PENALTIES INCURRED BY PAYEE;
 330 RELIANCE ON COURT ORDER; COMPLIANCE; RELEASE FROM LIABILITY;
 331 CONSTRUCTION.—

332 (a) The provisions of this section may not be waived by the
 333 payee.

334 (b) If a transfer of structured settlement payment rights
 335 fails to satisfy the conditions of subsection (3), the payee who
 336 proposed the transfer does not incur any penalty, forfeit any
 337 application fee or other payment, or otherwise incur any
 338 liability to the proposed transferee.

339 (c) In any transfer of structured settlement payment
 340 rights, the transferee is solely responsible for compliance with
 341 the requirements of paragraph (3) (a) and subsection (4), and
 342 neither the structured settlement obligor nor the annuity issuer
 343 shall incur any liability arising from noncompliance.

344 (d) Following issuance of a court order approving a
 345 transfer of structured settlement payment rights under this
 346 section, the structured settlement obligor and annuity issuer:

347 1. May rely on the court order in redirecting future
 348 structured settlement payments to the transferee or an assignee

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349 in accordance with the order; and

350 2. Are released and discharged from any liability for the
 351 transferred payments to any party except the transferee or an
 352 assignee, notwithstanding the failure of any party to the
 353 transfer to comply with this section or with the orders of the
 354 court approving the transfer.

355 (e) If the terms of the structured settlement prohibit
 356 transfer of payment rights:

357 1. A court is not precluded from hearing an application for
 358 approval of a transfer of such payment rights or ruling on the
 359 merits of the application and any objections to the application;
 360 and

361 2. The parties to such structured settlement are not
 362 precluded from waiving or asserting their rights under such
 363 terms.

364 (6) NONCOMPLIANCE.—

365 (a) If a transferee violates the requirements for
 366 stipulating the discount and finance charge provided for in
 367 subsection (3), neither the transferee nor any assignee may
 368 collect from the transferred payments, or from the payee, any
 369 amount in excess of the net advance amount, and the payee may
 370 recover from the transferee or any assignee:

371 1. A refund of any excess amounts previously received by
 372 the transferee or any assignee;

373 2. A penalty in an amount determined by the court, but not
 374 in excess of three times the aggregate amount of the discount
 375 and finance charge; and

376 3. Reasonable costs and attorney attorney's fees.

377 (b) If the transferee violates the disclosure requirements

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378 in subsection (3), the transferee and any assignee are liable to
 379 the payee for:

380 1. A penalty in an amount determined by the court, but not
 381 in excess of three times the amount of the discount and finance
 382 charge; and

383 2. Reasonable costs and attorney attorney's fees.

384 (c) A transferee or assignee is not liable for any penalty
 385 in any action brought under this section if the transferee or
 386 assignee establishes by a preponderance of evidence that the
 387 violation was not intentional and resulted from a bona fide
 388 error, notwithstanding the transferee's maintenance of
 389 procedures reasonably designed to avoid such errors.

390 (d) Notwithstanding any other law, an action may not be
 391 brought under this section more than 1 year after the due date
 392 of:

393 1. The last transferred structured settlement payment, in
 394 the case of a violation of the requirements for stipulating the
 395 discount and finance charge provided for in subsection (3).

396 2. The first transferred structured settlement payment, in
 397 the case of a violation of the disclosure requirements of
 398 subsection (3).

399 (e) When any interested party has reason to believe that
 400 any transferee has violated this section, any interested party
 401 may bring a civil action for injunctive relief, penalties, and
 402 any other relief that is appropriate to secure compliance with
 403 this section.

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



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: December 18, 2015

I respectfully request that **Senate Bill #458**, relating to Transfers of structured Settlement Payment Rights, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Garrett Richter".

Senator Garrett Richter
Florida Senate, District 23

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-14-16

Meeting Date

458

Bill Number (if applicable)

Topic Transfers of Structured Settlement

Amendment Barcode (if applicable)

Name G.C. MURRAY

Job Title Deputy General Counsel

Address 218 S Monroe St.

Phone

Street

TLH

City

FL

State

32301

Zip

Email gmurray@floridajusticeassociates.com

Speaking: For Against Information

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

Representing Florida Justice 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)

1/14/2016

Meeting Date

Topic _____

Bill Number 458
(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.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/14/14
Meeting Date

2552458
Bill Number (if applicable)

Topic Structural Settlement Transfers

Amendment Barcode (if applicable)

Name Diane Carr @ARR

Job Title Senior Counsel, Johnson & Associates

Address 834 A Park
Street
Toll, Ga
City State Zip

Phone 224.1900

Email Diane@TeamB.com

Speaking: For Against Information

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

Representing National Association Settlement Purchasers

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 Rules

BILL: SB 1030

INTRODUCER: Senator Simmons

SUBJECT: Florida Statutes

DATE: January 13, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Pollitz (DLRI)	Phelps	RC	Favorable

I. Summary:

SB 1030 is drafted by the Division of Law Revision and Information of the Office of Legislative Services to adopt the Florida Statutes 2016 and designate the portions thereof that are to constitute the official statutory law of the state. This adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.

II. Present Situation:

The 2016 adoption act will adopt all statutes material passed through the October 19-November 6, 2015, Special Session and printed in the 2016 edition. Material passed in a session occurring since publication of the 2015 edition must wait 1 more year before being adopted, and the session law form of that material will remain the best evidence of the law for that material.

III. Effect of Proposed Changes:

The adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law. The 2016 adoption act adopts as the official statute law of the state those portions of the 2016 Florida Statutes edition that are carried forward unchanged from the edition published 1 year previously (2015). Portions carried forward from the 2015 edition are the official law of the state and, therefore, constitute the best evidence of the law. The portions resulting from sessions occurring subsequent to the publication of the 2015 edition are prima facie evidence of the law in all courts of the state; for this material, the enrolled acts stand as the best evidence of the law. Any "statute of a general and permanent nature" enacted before publication of the 2015 Florida Statutes that does not appear in the 2015 edition, or is not recognized and continued in force by reference therein or in s. 11.2423 or s. 11.2424, Florida

Statutes, stands repealed, both by the logic of the system and by operation of s. 11.2422, Florida Statutes. *See National Bank v. Williams*, 28 Fla. 305, 20 So. 931 (1896).

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.2421, 11.2422, 11.2424, and 11.2425, F.S.

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.

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

By Senator Simmons

10-00613-16

20161030__

A bill to be entitled

An act relating to the Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.; adopting the Florida Statutes 2016 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2016 shall be effective immediately upon publication; providing that general laws enacted during the October 19-November 6, 2015, special session and prior thereto and not included in the Florida Statutes 2016 are repealed; providing that general laws enacted after the October 19-November 6, 2015, special session are not repealed by this adoption act; providing an effective date.

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

Section 1. Section 11.2421, Florida Statutes, is amended to read:

11.2421 Florida Statutes 2016 2015 adopted.—The accompanying revision, consolidation, and compilation of the public statutes of 2015 2014 of a general and permanent nature, excepting tables, rules, indexes, and other related matter contained therein, prepared by the Office of Legislative Services under the provisions of s. 11.242, together with corrections, changes, and amendments to and repeals of provisions of Florida Statutes 2015 2014 enacted in additional reviser's bill or bills by the 2016 2015 Legislature, is adopted and enacted as the official statute law of the state under the

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title of "Florida Statutes 2016 2015" and shall take effect immediately upon publication. Said statutes may be cited as "Florida Statutes 2016 2015," "Florida Statutes," or "F.S. 2016 2015."

Section 2. Section 11.2422, Florida Statutes, is amended to read:

11.2422 Statutes repealed.—Every statute of a general and permanent nature enacted by the State or by the Territory of Florida at or prior to the October 19-November 6, 2015 August 7-11, 2014, special legislative session, and every part of such statute, not included in Florida Statutes 2016 2015, as adopted by s. 11.2421, as amended, or recognized and continued in force by reference therein or in ss. 11.2423 and 11.2424, as amended, is repealed.

Section 3. Section 11.2424, Florida Statutes, is amended to read:

11.2424 Laws not repealed.—Laws enacted after at the October 19-November 6, 2015, special regular session are not repealed by the adoption and enactment of the Florida Statutes 2016 2015 by s. 11.2421, as amended, but shall have full effect as if enacted after its said adoption and enactment.

Section 4. Section 11.2425, Florida Statutes, is amended to read:

11.2425 Rights reserved under repealed statutes.—The repeal of any statute by the adoption and enactment of Florida Statutes 2016 2015, by s. 11.2421, as amended, shall not affect any right accrued before such repeal or any civil remedy where a suit is pending.

Section 5. This act shall take effect on the 60th day after

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20161030__

59 adjournment sine die of the session of the Legislature in which
60 enacted.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 / 14 / 2016

Meeting Date

Topic _____

Bill Number 1030

(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.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 1038

INTRODUCER: Senator Simmons

SUBJECT: Florida Statutes

DATE: January 13, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Pollitz (DLRI)	Phelps	RC	Pre-meeting

I. Summary:

The Division of Law Revision and Information of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills.

This is a general reviser's bill to delete expired or obsolete language; correct cross-references and grammatical or typographical errors; remove inconsistencies and redundancies from the statutes; improve the clarity of the statutes and facilitate their correct interpretation; and confirm the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process. A reviser's bill cannot be amended except to delete a bill section.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 27.7045, 39.0134, 39.701, 55.203, 101.56065, 110.12302, 112.0455, 112.362, 119.0712, 153.74, 159.02, 161.091, 163.3177, 166.271, 189.031, 200.001, 200.065, 200.068, 200.141, 212.08, 213.0532, 218.39, 220.63, 238.05, 255.041, 255.254, 259.032, 272.135, 288.012, 311.12, 316.3025, 333.07, 336.71, 343.1003, 366.95, 373.236, 373.4149, 373.41492, 379.3751, 380.510, 383.402, 395.1012, 400.0065, 400.0070, 400.0081, 400.0087, 400.022, 400.141, 403.5363, 408.301, 409.978, 415.113, 456.074, 458.3265, 459.0137, 468.503, 468.509, 468.513, 468.514, 468.515, 468.518, 480.041, 480.043, 497.159, 546.10, 553.74, 559.55, 559.555, 560.141, 561.42, 561.57, 605.0410, 610.1201, 617.01301, 618.221, 624.5105, 625.012, 631.152, 631.737, 641.225, 719.108, 742.14, 752.001, 765.105, 765.2038, 787.29, 893.138, 944.4731, 945.215, 1001.65, 1002.3105, 1003.21, 1003.5716, 1012.22, and 1012.341, F.S.; reenacts and amends s. 1008.22, F.S; and repeals ss. 200.185 and 624.35, F.S.

II. Present Situation:

The Division of Law Revision and Information, under the authority and requirements of s. 11.242, Florida Statutes, submits reviser's bills to the rules committees of both houses as needed. General reviser's bills to clean up obsolete language, update cross-references, and correct grammatical and typographical errors and the like are submitted every year.

III. Effect of Proposed Changes:

The effect of this bill is of a technical nature only; reviser's bills do not contain substantive changes. The bill will clean up grammatical and similar errors in the Florida Statutes.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 27.7045, 39.0134, 39.701, 55.203, 101.56065, 110.12302, 112.0455, 112.362, 119.0712, 153.74, 159.02, 161.091, 163.3177, 166.271, 189.031, 200.001, 200.065, 200.068, 200.141, 212.08, 213.0532, 218.39, 220.63, 238.05, 255.041, 255.254, 259.032, 272.135, 288.012, 311.12, 316.3025, 333.07, 336.71, 343.1003, 366.95, 373.236, 373.4149, 373.41492, 379.3751, 380.510, 383.402, 395.1012, 400.0065, 400.0070, 400.0081, 400.0087, 400.022, 400.141, 403.5363, 408.301, 409.978, 415.113, 456.074, 458.3265, 459.0137, 468.503, 468.509, 468.513, 468.514, 468.515, 468.518, 480.041, 480.043, 497.159, 546.10, 553.74, 559.55, 559.555, 560.141, 561.42, 561.57, 605.0410, 610.1201, 617.01301, 618.221, 624.5105, 625.012, 631.152, 631.737, 641.225, 719.108, 742.14, 752.001, 765.105, 765.2038, 787.29, 893.138, 944.4731, 945.215, 1001.65, 1002.3105, 1003.21, 1003.5716, 1012.22, 1012.341.

This bill reenacts and substantially amends s. 1008.22, F.S.

This bill creates the following sections of the Florida Statutes: None.

This bill repeals the following sections of the Florida Statutes: ss. 200.185 and 624.35, F.S.

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.



523840

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2016 - 2064.

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

And the title is amended as follows:

Delete line 15

and insert:

559.55, 559.555, 561.42, 561.57, 605.0410,



114760

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Simmons) recommended the following:

1 **Senate Substitute for Amendment (523840) (with title**
2 **amendment)**

3
4 Delete lines 2019 - 2064.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete line 15

9 and insert:

10 559.55, 559.555, 561.42, 561.57, 605.0410

By Senator Simmons

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1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes; amending ss.
 3 27.7045, 39.0134, 39.701, 55.203, 101.56065,
 4 110.12302, 112.0455, 112.362, 119.0712, 153.74,
 5 159.02, 161.091, 163.3177, 166.271, 189.031, 200.001,
 6 200.065, 200.068, 200.141, 212.08, 213.0532, 218.39,
 7 220.63, 238.05, 255.041, 255.254, 259.032, 272.135,
 8 288.012, 311.12, 316.3025, 333.07, 336.71, 343.1003,
 9 366.95, 373.236, 373.4149, 373.41492, 379.3751,
 10 380.510, 383.402, 395.1012, 400.0065, 400.0070,
 11 400.0081, 400.0087, 400.022, 400.141, 403.5363,
 12 408.301, 409.978, 415.113, 456.074, 458.3265,
 13 459.0137, 468.503, 468.509, 468.513, 468.514, 468.515,
 14 468.518, 480.041, 480.043, 497.159, 546.10, 553.74,
 15 559.55, 559.555, 560.141, 561.42, 561.57, 605.0410,
 16 610.1201, 617.01301, 618.221, 624.5105, 625.012,
 17 631.152, 631.737, 641.225, 719.108, 742.14, 752.001,
 18 765.105, 765.2038, 787.29, 893.138, 944.4731, 945.215,
 19 1001.65, 1002.3105, 1003.21, 1003.5716, 1012.22, and
 20 1012.341, F.S.; reenacting and amending s. 1008.22,
 21 F.S.; and repealing ss. 200.185 and 624.35, F.S.;
 22 deleting provisions that have expired, have become
 23 obsolete, have had their effect, have served their
 24 purpose, or have been impliedly repealed or
 25 superseded; replacing incorrect cross-references and
 26 citations; correcting grammatical, typographical, and
 27 like errors; removing inconsistencies, redundancies,
 28 and unnecessary repetition in the statutes; improving
 29 the clarity of the statutes and facilitating their

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30 correct interpretation; and confirming the restoration
 31 of provisions unintentionally omitted from
 32 republication in the acts of the Legislature during
 33 the amendatory process; providing an effective date.
 34
 35 Be It Enacted by the Legislature of the State of Florida:
 36
 37 Section 1. Section 27.7045, Florida Statutes, is amended to
 38 read:
 39 27.7045 Capital case proceedings; constitutionally
 40 deficient representation.—Notwithstanding any other ~~another~~
 41 provision of law, an attorney employed by the state or appointed
 42 pursuant to s. 27.711 may not represent a person charged with a
 43 capital offense at trial or on direct appeal or a person
 44 sentenced to death in a postconviction proceeding if, in two
 45 separate instances, a court, in a capital postconviction
 46 proceeding, determined that such attorney provided
 47 constitutionally deficient representation and relief was granted
 48 as a result. This prohibition on representation shall be for a
 49 period of 5 years, which commences at the time relief is granted
 50 after the highest court having jurisdiction to review the
 51 deficient representation determination has issued its final
 52 order affirming the second such determination.
 53 Reviser's note.—Amended to improve clarity.
 54 Section 2. Paragraph (c) of subsection (2) of section
 55 39.0134, Florida Statutes, is amended to read:
 56 39.0134 Appointed counsel; compensation.—
 57 (2)
 58 (c) The clerk of the court shall transfer monthly all

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59 attorney's fees and costs collected under this subsection to the
 60 Department of Revenue for deposit into the Indigent Civil
 61 Defense Trust Fund, to be used as appropriated by the
 62 Legislature and consistent with s. 27.5111 ~~27.511~~.
 63 Reviser's note.—Amended to conform to the fact that the Indigent
 64 Civil Defense Trust Fund is created in s. 27.5111; the
 65 trust fund is not referenced in s. 27.511.
 66 Section 3. Paragraph (b) of subsection (3) of section
 67 39.701, Florida Statutes, is amended to read:
 68 39.701 Judicial review.—
 69 (3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—
 70 (b) At the first judicial review hearing held subsequent to
 71 the child's 17th birthday, the department shall provide the
 72 court with an updated case plan that includes specific
 73 information related to the independent living skills that the
 74 child has acquired since the child's 13th birthday, or since the
 75 date the child came into foster care, whichever came later.
 76 1. For any child who ~~that~~ may meet the requirements for
 77 appointment of a guardian pursuant to chapter 744, or a guardian
 78 advocate pursuant to s. 393.12, the updated case plan must be
 79 developed in a face-to-face conference with the child, if
 80 appropriate; the child's attorney; any court-appointed guardian
 81 ad litem; the temporary custodian of the child; and the parent,
 82 if the parent's rights have not been terminated.
 83 2. At the judicial review hearing, if the court determines
 84 pursuant to chapter 744 that there is a good faith basis to
 85 believe that the child qualifies for appointment of a guardian
 86 advocate, limited guardian, or plenary guardian for the child
 87 and that no less restrictive decisionmaking assistance will meet

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88 the child's needs:
 89 a. The department shall complete a multidisciplinary report
 90 which must include, but is not limited to, a psychosocial
 91 evaluation and educational report if such a report has not been
 92 completed within the previous 2 years.
 93 b. The department shall identify one or more individuals
 94 who are willing to serve as the guardian advocate pursuant to s.
 95 393.12 or as the plenary or limited guardian pursuant to chapter
 96 744. Any other interested parties or participants may make
 97 efforts to identify such a guardian advocate, limited guardian,
 98 or plenary guardian. The child's biological or adoptive family
 99 members, including the child's parents if the parents' rights
 100 have not been terminated, may not be considered for service as
 101 the plenary or limited guardian unless the court enters a
 102 written order finding that such an appointment is in the child's
 103 best interests.
 104 c. Proceedings may be initiated within 180 days after the
 105 child's 17th birthday for the appointment of a guardian
 106 advocate, plenary guardian, or limited guardian for the child in
 107 a separate proceeding in the court division with jurisdiction
 108 over guardianship matters and pursuant to chapter 744. The
 109 Legislature encourages the use of pro bono representation to
 110 initiate proceedings under this section.
 111 3. In the event another interested party or participant
 112 initiates proceedings for the appointment of a guardian
 113 advocate, plenary guardian, or limited guardian for the child,
 114 the department shall provide all necessary documentation and
 115 information to the petitioner to complete a petition under s.
 116 393.12 or chapter 744 within 45 days after the first judicial

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117 review hearing after the child's 17th birthday.
 118 4. Any proceedings seeking appointment of a guardian
 119 advocate or a determination of incapacity and the appointment of
 120 a guardian must be conducted in a separate proceeding in the
 121 court division with jurisdiction over guardianship matters and
 122 pursuant to chapter 744.
 123 Reviser's note.—Amended to confirm the editorial substitution of
 124 the word "who" for the word "that" to conform to context.
 125 Section 4. Paragraph (h) of subsection (1) of section
 126 55.203, Florida Statutes, is repealed.
 127 Reviser's note.—The referenced paragraph is repealed to delete a
 128 provision that has served its purpose. The paragraph
 129 requires an original judgment lien certificate for a lien
 130 acquired by delivery of a writ of execution to a sheriff
 131 prior to October 1, 2001, to include an affidavit by the
 132 judgment creditor attesting that the person or entity
 133 possesses any documentary evidence of the date of delivery
 134 of the writ, and a statement of that date or a
 135 certification by the sheriff of the date as provided in s.
 136 30.17(4). Section 30.17 was repealed by s. 5, ch. 2005-2,
 137 Laws of Florida.
 138 Section 5. Paragraph (a) of subsection (2) of section
 139 101.56065, Florida Statutes, is amended to read:
 140 101.56065 Voting system defects; disclosure;
 141 investigations; penalties.—
 142 (2) (a) ~~No later than December 31, 2013, and, thereafter,~~ On
 143 January 1 of every odd-numbered year, each vendor shall file a
 144 written disclosure with the department identifying any known
 145 defect in the voting system or the fact that there is no known

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146 defect, the effect of any defect on the operation and use of the
 147 approved voting system, and any known corrective measures to
 148 cure a defect, including, but not limited to, advisories and
 149 bulletins issued to system users.
 150 Reviser's note.—Amended to delete language that has served its
 151 purpose.
 152 Section 6. Section 110.12302, Florida Statutes, is amended
 153 to read:
 154 110.12302 Costing options for plan designs required for
 155 contract solicitation; best value recommendations.—For the state
 156 group insurance program, the Department of Management Services
 157 shall require costing options for both fully insured and self-
 158 insured plan designs, or some combination thereof, as part of
 159 the department's solicitation for health maintenance
 160 organization contracts. ~~Prior to contracting, the department~~
 161 ~~shall recommend to the Legislature, no later than February 1,~~
 162 ~~2011, the best value to the State group insurance program~~
 163 ~~relating to health maintenance organizations.~~
 164 Reviser's note.—Amended to delete an obsolete provision.
 165 Section 7. Paragraph (e) of subsection (10) of section
 166 112.0455, Florida Statutes, is amended to read:
 167 112.0455 Drug-Free Workplace Act.—
 168 (10) EMPLOYER PROTECTION.—
 169 (e) Nothing in this section shall be construed to operate
 170 retroactively, ~~and nothing in this section shall abrogate the~~
 171 ~~right of an employer under state law to conduct drug tests prior~~
 172 ~~to January 1, 1990. A drug test conducted by an employer prior~~
 173 ~~to January 1, 1990, is not subject to this section.~~
 174 Reviser's note.—Amended to delete obsolete provisions.

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175 Section 8. Subsection (3) of section 112.362, Florida
 176 Statutes, is amended to read:
 177 112.362 Recomputation of retirement benefits.—
 178 (3) A member of any state-supported retirement system who
 179 has already retired under a retirement plan or system which does
 180 not require its members to participate in social security
 181 pursuant to a modification of the federal-state social security
 182 agreement as authorized by the provisions of chapter 650, who is
 183 over 65 years of age, and who has not less than 10 years of
 184 creditable service, or the surviving spouse or beneficiary of
 185 said member who, if living, would be over 65 years of age, upon
 186 application to the administrator, may have his or her present
 187 monthly retirement benefits recomputed and receive a monthly
 188 retirement allowance equal to \$10 multiplied by the total number
 189 of years of creditable service. Effective July 1, 1978, this
 190 minimum monthly benefit shall be equal to \$10.50 multiplied by
 191 the total number of years of creditable service, and thereafter
 192 said minimum monthly benefit shall be recomputed as provided in
 193 paragraph (5) (a). This adjustment shall be made in accordance
 194 with subsection (2). No retirement benefits shall be reduced
 195 under this computation. Retirees receiving additional benefits
 196 under the provisions of this subsection shall also receive the
 197 cost-of-living adjustments provided by the appropriate state-
 198 supported retirement system for the fiscal year beginning July
 199 1, 1977, and for each fiscal year thereafter. The minimum
 200 monthly benefit provided by this subsection ~~paragraph~~ shall not
 201 apply to any member or the beneficiary of any member who retires
 202 after June 30, 1978.
 203 Reviser's note.—Amended to conform to context and to the fact

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204 that subsection (3) did not have paragraphs when it was
 205 added by s. 1, ch. 78-364, Laws of Florida, nor does it
 206 have paragraphs currently.
 207 Section 9. Paragraph (c) of subsection (2) of section
 208 119.0712, Florida Statutes, is amended to read:
 209 119.0712 Executive branch agency-specific exemptions from
 210 inspection or copying of public records.—
 211 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—
 212 (c) E-mail addresses collected by the Department of Highway
 213 Safety and Motor Vehicles pursuant to s. 319.40(3), s.
 214 320.95(2), or s. 322.08(9) ~~322.08(8)~~ are exempt from s.
 215 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 216 exemption applies retroactively. This paragraph is subject to
 217 the Open Government Sunset Review Act in accordance with s.
 218 119.15 and shall stand repealed on October 2, 2020, unless
 219 reviewed and saved from repeal through reenactment by the
 220 Legislature.
 221 Reviser's note.—Amended to conform to the redesignation of
 222 subsections in s. 322.08 by s. 14, ch. 2015-163, Laws of
 223 Florida.
 224 Section 10. Subsection (2) of section 153.74, Florida
 225 Statutes, is amended to read:
 226 153.74 Issuance of certificates of indebtedness based on
 227 assessments for assessable improvements.—
 228 (2) The district may also issue assessment bonds or other
 229 obligations payable from a special fund into which such
 230 certificates of indebtedness referred to in the preceding
 231 subsection may be deposited; or, if such certificates of
 232 indebtedness have not been issued, the district may assign to

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233 such special fund for the benefit of the holders of such
 234 assessment bonds or other obligations, or to a trustee for such
 235 bondholders, the assessment liens provided for in s. 153.73(11)
 236 ~~153.73(10)~~, unless such certificates of indebtedness or
 237 assessment liens have been theretofore pledged for any bonds or
 238 other obligations authorized hereunder. In the event of the
 239 creation of such special fund and the issuance of such
 240 assessment bonds or other obligations, the proceeds of such
 241 certificates of indebtedness or assessment liens deposited
 242 therein shall be used only for the payment of the assessment
 243 bonds or other obligations issued as provided in this section.
 244 The district is hereby authorized to covenant with the holders
 245 of such assessment bonds or other obligations that it will
 246 diligently and faithfully enforce and collect all the special
 247 assessments and interest and penalties thereon for which such
 248 certificates of indebtedness or assessment liens have been
 249 deposited in or assigned to such fund, and to foreclose such
 250 assessment liens so assigned to such special fund or represented
 251 by the certificates of indebtedness deposited in said special
 252 fund, after such assessment liens have become delinquent and
 253 deposit the proceeds derived from such foreclosure, including
 254 interest and penalties, in such special fund, and to further
 255 make any other necessary covenants deemed necessary or advisable
 256 in order to properly secure the holders of such assessment bonds
 257 or other obligations.
 258 Reviser's note.—Amended to correct an apparent error. Section
 259 153.73(10) does not reference assessment liens; s.
 260 153.73(11)(c) provides that all assessments constitute a
 261 lien on the property assessed.

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262 Section 11. Subsection (16) of section 159.02, Florida
 263 Statutes, is amended to read:
 264 159.02 Definitions.—As used in this part, the following
 265 words and terms shall have the following meanings, unless some
 266 other meaning is plainly intended:
 267 (16) The term "utilities services taxes" shall mean taxes
 268 levied and collected on the purchase or sale of utilities
 269 services pursuant to ~~ss. 167.431 and 167.45~~ or any other law.
 270 Reviser's note.—Amended to delete references to ss. 167.431 and
 271 167.45, which were repealed by s. 5, ch. 73-129, Laws of
 272 Florida.
 273 Section 12. Subsection (1) of section 161.091, Florida
 274 Statutes, is amended to read:
 275 161.091 Beach management; funding; repair and maintenance
 276 strategy.—
 277 (1) Subject to such appropriations as the Legislature may
 278 make therefor from time to time, disbursements from the Land
 279 Acquisition Trust Fund may be made by the department in order to
 280 carry out the proper state responsibilities in a comprehensive,
 281 long-range, statewide beach management plan for erosion control;
 282 beach preservation, restoration, and nourishment; ~~and~~ storm and
 283 hurricane protection; and other activities authorized for
 284 beaches and shores pursuant to s. 28, Art. X of the State
 285 Constitution. Legislative intent in appropriating such funds is
 286 for the implementation of those projects that contribute most
 287 significantly to addressing the state's beach erosion problems.
 288 Reviser's note.—Amended to confirm the editorial deletion of the
 289 word "and."
 290 Section 13. Paragraph (a) of subsection (6) of section

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291 163.3177, Florida Statutes, is amended to read:

292 163.3177 Required and optional elements of comprehensive
293 plan; studies and surveys.—

294 (6) In addition to the requirements of subsections (1)-(5),
295 the comprehensive plan shall include the following elements:

296 (a) A future land use plan element designating proposed
297 future general distribution, location, and extent of the uses of
298 land for residential uses, commercial uses, industry,
299 agriculture, recreation, conservation, education, public
300 facilities, and other categories of the public and private uses
301 of land. The approximate acreage and the general range of
302 density or intensity of use shall be provided for the gross land
303 area included in each existing land use category. The element
304 shall establish the long-term end toward which land use programs
305 and activities are ultimately directed.

306 1. Each future land use category must be defined in terms
307 of uses included, and must include standards to be followed in
308 the control and distribution of population densities and
309 building and structure intensities. The proposed distribution,
310 location, and extent of the various categories of land use shall
311 be shown on a land use map or map series which shall be
312 supplemented by goals, policies, and measurable objectives.

313 2. The future land use plan and plan amendments shall be
314 based upon surveys, studies, and data regarding the area, as
315 applicable, including:

316 a. The amount of land required to accommodate anticipated
317 growth.

318 b. The projected permanent and seasonal population of the
319 area.

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320 c. The character of undeveloped land.

321 d. The availability of water supplies, public facilities,
322 and services.

323 e. The need for redevelopment, including the renewal of
324 blighted areas and the elimination of nonconforming uses which
325 are inconsistent with the character of the community.

326 f. The compatibility of uses on lands adjacent to or
327 closely proximate to military installations.

328 g. The compatibility of uses on lands adjacent to an
329 airport as defined in s. 330.35 and consistent with s. 333.02.

330 h. The discouragement of urban sprawl.

331 i. The need for job creation, capital investment, and
332 economic development that will strengthen and diversify the
333 community's economy.

334 j. The need to modify land uses and development patterns
335 within antiquated subdivisions.

336 3. The future land use plan element shall include criteria
337 to be used to:

338 a. Achieve the compatibility of lands adjacent or closely
339 proximate to military installations, considering factors
340 identified in s. 163.3175(5).

341 b. Achieve the compatibility of lands adjacent to an
342 airport as defined in s. 330.35 and consistent with s. 333.02.

343 c. Encourage preservation of recreational and commercial
344 working waterfronts for water-dependent uses in coastal
345 communities.

346 d. Encourage the location of schools proximate to urban
347 residential areas to the extent possible.

348 e. Coordinate future land uses with the topography and soil

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349 conditions, and the availability of facilities and services.

350 f. Ensure the protection of natural and historic resources.

351 g. Provide for the compatibility of adjacent land uses.

352 h. Provide guidelines for the implementation of mixed-use
353 development including the types of uses allowed, the percentage
354 distribution among the mix of uses, or other standards, and the
355 density and intensity of each use.

356 4. The amount of land designated for future planned uses
357 shall provide a balance of uses that foster vibrant, viable
358 communities and economic development opportunities and address
359 outdated development patterns, such as antiquated subdivisions.
360 The amount of land designated for future land uses should allow
361 the operation of real estate markets to provide adequate choices
362 for permanent and seasonal residents and business and may not be
363 limited solely by the projected population. The element shall
364 accommodate at least the minimum amount of land required to
365 accommodate the medium projections as published by the Office of
366 Economic and Demographic Research for at least a 10-year
367 planning period unless otherwise limited under s. 380.05,
368 including related rules of the Administration Commission.

369 5. The future land use plan of a county may designate areas
370 for possible future municipal incorporation.

371 6. The land use maps or map series shall generally identify
372 and depict historic district boundaries and shall designate
373 historically significant properties meriting protection.

374 7. The future land use element must clearly identify the
375 land use categories in which public schools are an allowable
376 use. When delineating the land use categories in which public
377 schools are an allowable use, a local government shall include

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378 in the categories sufficient land proximate to residential
379 development to meet the projected needs for schools in
380 coordination with public school boards and may establish
381 differing criteria for schools of different type or size. Each
382 local government shall include lands contiguous to existing
383 school sites, to the maximum extent possible, within the land
384 use categories in which public schools are an allowable use.

385 8. Future land use map amendments shall be based upon the
386 following analyses:

387 a. An analysis of the availability of facilities and
388 services.

389 b. An analysis of the suitability of the plan amendment for
390 its proposed use considering the character of the undeveloped
391 land, soils, topography, natural resources, and historic
392 resources on site.

393 c. An analysis of the minimum amount of land needed to
394 achieve the goals and requirements of this section.

395 9. The future land use element and any amendment to the
396 future land use element shall discourage the proliferation of
397 urban sprawl.

398 a. The primary indicators that a plan or plan amendment
399 does not discourage the proliferation of urban sprawl are listed
400 below. The evaluation of the presence of these indicators shall
401 consist of an analysis of the plan or plan amendment within the
402 context of features and characteristics unique to each locality
403 in order to determine whether the plan or plan amendment:

404 (I) Promotes, allows, or designates for development
405 substantial areas of the jurisdiction to develop as low-
406 intensity, low-density, or single-use development or uses.

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407 (II) Promotes, allows, or designates significant amounts of
 408 urban development to occur in rural areas at substantial
 409 distances from existing urban areas while not using undeveloped
 410 lands that are available and suitable for development.

411 (III) Promotes, allows, or designates urban development in
 412 radial, strip, isolated, or ribbon patterns generally emanating
 413 from existing urban developments.

414 (IV) Fails to adequately protect and conserve natural
 415 resources, such as wetlands, floodplains, native vegetation,
 416 environmentally sensitive areas, natural groundwater aquifer
 417 recharge areas, lakes, rivers, shorelines, beaches, bays,
 418 estuarine systems, and other significant natural systems.

419 (V) Fails to adequately protect adjacent agricultural areas
 420 and activities, including silviculture, active agricultural and
 421 silvicultural activities, passive agricultural activities, and
 422 dormant, unique, and prime farmlands and soils.

423 (VI) Fails to maximize use of existing public facilities
 424 and services.

425 (VII) Fails to maximize use of future public facilities and
 426 services.

427 (VIII) Allows for land use patterns or timing which
 428 disproportionately increase the cost in time, money, and energy
 429 of providing and maintaining facilities and services, including
 430 roads, potable water, sanitary sewer, stormwater management, law
 431 enforcement, education, health care, fire and emergency
 432 response, and general government.

433 (IX) Fails to provide a clear separation between rural and
 434 urban uses.

435 (X) Discourages or inhibits infill development or the

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436 redevelopment of existing neighborhoods and communities.

437 (XI) Fails to encourage a functional mix of uses.

438 (XII) Results in poor accessibility among linked or related
 439 land uses.

440 (XIII) Results in the loss of significant amounts of
 441 functional open space.

442 b. The future land use element or plan amendment shall be
 443 determined to discourage the proliferation of urban sprawl if it
 444 incorporates a development pattern or urban form that achieves
 445 four or more of the following:

446 (I) Directs or locates economic growth and associated land
 447 development to geographic areas of the community in a manner
 448 that does not have an adverse impact on and protects natural
 449 resources and ecosystems.

450 (II) Promotes the efficient and cost-effective provision or
 451 extension of public infrastructure and services.

452 (III) Promotes walkable and connected communities and
 453 provides for compact development and a mix of uses at densities
 454 and intensities that will support a range of housing choices and
 455 a multimodal transportation system, including pedestrian,
 456 bicycle, and transit, if available.

457 (IV) Promotes conservation of water and energy.

458 (V) Preserves agricultural areas and activities, including
 459 silviculture, and dormant, unique, and prime farmlands and
 460 soils.

461 (VI) Preserves open space and natural lands and provides
 462 for public open space and recreation needs.

463 (VII) Creates a balance of land uses based upon demands of
 464 the residential population for the nonresidential needs of an

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465 area.

466 (VIII) Provides uses, densities, and intensities of use and

467 urban form that would remediate an existing or planned

468 development pattern in the vicinity that constitutes sprawl or

469 if it provides for an innovative development pattern such as

470 transit-oriented developments or new towns as defined in s.

471 163.3164.

472 10. The future land use element shall include a future land

473 use map or map series.

474 a. The proposed distribution, extent, and location of the

475 following uses shall be shown on the future land use map or map

476 series:

477 (I) Residential.

478 (II) Commercial.

479 (III) Industrial.

480 (IV) Agricultural.

481 (V) Recreational.

482 (VI) Conservation.

483 (VII) Educational.

484 (VIII) Public.

485 b. The following areas shall also be shown on the future

486 land use map or map series, if applicable:

487 (I) Historic district boundaries and designated

488 historically significant properties.

489 (II) Transportation concurrency management area boundaries

490 or transportation concurrency exception area boundaries.

491 (III) Multimodal transportation district boundaries.

492 (IV) Mixed-use categories.

493 c. The following natural resources or conditions shall be

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494 shown on the future land use map or map series, if applicable:

495 (I) Existing and planned public potable waterwells, cones

496 of influence, and wellhead protection areas.

497 (II) Beaches and shores, including estuarine systems.

498 (III) Rivers, bays, lakes, floodplains, and harbors.

499 (IV) Wetlands.

500 (V) Minerals and soils.

501 (VI) Coastal high hazard areas.

502 ~~11. Local governments required to update or amend their~~

503 ~~comprehensive plan to include criteria and address compatibility~~

504 ~~of lands adjacent or closely proximate to existing military~~

505 ~~installations, or lands adjacent to an airport as defined in s.~~

506 ~~330.35 and consistent with s. 333.02, in their future land use~~

507 ~~plan element shall transmit the update or amendment to the state~~

508 ~~land planning agency by June 30, 2012.~~

509 Reviser's note.—Amended to delete an obsolete provision.

510 Section 14. Subsection (1) of section 166.271, Florida

511 Statutes, is amended to read:

512 166.271 Surcharge on municipal facility parking fees.—

513 (1) The governing authority of any municipality with a

514 resident population of 200,000 or more, more than 20 percent of

515 the real property of which is exempt from ad valorem taxes, and

516 which is located in a county with a population of more than

517 500,000 may impose and collect, subject to referendum approval

518 by voters in the municipality, a discretionary per vehicle

519 surcharge of up to 15 percent of the amount charged for the

520 sale, lease, or rental of space at parking facilities within the

521 municipality which are open for use to the general public and

522 which are not airports, seaports, county administration

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523 buildings, or other projects as defined under ss. 125.011 and
 524 125.015, ~~provided that this surcharge shall not take effect~~
 525 ~~while any surcharge imposed pursuant to former s. 218.503(6) (a),~~
 526 ~~is in effect.~~

527 Reviser's note.—Amended to delete obsolete language. The
 528 surcharge imposed under former s. 218.503(6) expired
 529 pursuant to its own terms, effective June 30, 2006;
 530 confirmed by s. 6, ch. 2007-6, Laws of Florida, a reviser's
 531 bill.

532 Section 15. Subsection (2) of section 189.031, Florida
 533 Statutes, is amended to read:

534 189.031 Legislative intent for the creation of independent
 535 special districts; special act prohibitions; model elements and
 536 other requirements; local general-purpose government/Governor
 537 and Cabinet creation authorizations.—

538 (2) SPECIAL ACTS PROHIBITED.—Pursuant to s. 11(a)(21), Art.
 539 III of the State Constitution, the Legislature hereby prohibits
 540 special laws or general laws of local application which:

541 (a) Create independent special districts that do not, at a
 542 minimum, conform to the minimum requirements in subsection (3);
 543 (b) Exempt independent special district elections from the
 544 appropriate requirements in s. 189.04;
 545 (c) Exempt an independent special district from the
 546 requirements for bond referenda in s. 189.042;
 547 (d) Exempt an independent special district from the
 548 reporting, notice, or public meetings requirements of s.
 549 189.015, s. 189.016, s. 189.051, or s. 189.08; or
 550 (e) Create an independent special district for which a
 551 statement has not been submitted to the Legislature that

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552 documents the following:

553 1. The purpose of the proposed district;
 554 2. The authority of the proposed district;
 555 3. An explanation of why the district is the best
 556 alternative; and
 557 4. A resolution or official statement of the governing body
 558 or an appropriate administrator of the local jurisdiction within
 559 which the proposed district is located stating that the creation
 560 of the proposed district is consistent with the approved local
 561 government plans of the local governing body and that the local
 562 government has no objection to the creation of the proposed
 563 district.

564 Reviser's note.—Amended to improve clarity.

565 Section 16. Paragraphs (l) and (m) of subsection (8) of
 566 section 200.001, Florida Statutes, are amended to read:

567 200.001 Millages; definitions and general provisions.—
 568 (8)
 569 (l) "Maximum total county ad valorem taxes levied" means
 570 the total taxes levied by a county, municipal service taxing
 571 units of that county, and special districts dependent to that
 572 county at their individual maximum millages, calculated pursuant
 573 to s. 200.065(5)(a) for fiscal years 2009-2010 and thereafter
 574 ~~and pursuant to s. 200.185 for fiscal years 2007-2008 and 2008-~~
 575 ~~2009.~~

576 (m) "Maximum total municipal ad valorem taxes levied" means
 577 the total taxes levied by a municipality and special districts
 578 dependent to that municipality at their individual maximum
 579 millages, calculated pursuant to s. 200.065(5)(b) for fiscal
 580 years 2009-2010 and thereafter ~~and by s. 200.185 for fiscal~~

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581 ~~years 2007 2008 and 2008 2009.~~

582 Reviser's note.—Amended to delete obsolete language and to
583 conform to the repeal of s. 200.185 by this act.

584 Section 17. Paragraph (b) of subsection (5) and paragraphs
585 (d) and (e) of subsection (13) of section 200.065, Florida
586 Statutes, are amended to read:

587 200.065 Method of fixing millage.—

588 (5) In each fiscal year:

589 (b) The millage rate of a county or municipality, municipal
590 service taxing unit of that county, and any special district
591 dependent to that county or municipality may exceed the maximum
592 millage rate calculated pursuant to this subsection if the total
593 county ad valorem taxes levied or total municipal ad valorem
594 taxes levied do not exceed the maximum total county ad valorem
595 taxes levied or maximum total municipal ad valorem taxes levied
596 respectively. Voted millage and taxes levied by a municipality
597 or independent special district that has levied ad valorem taxes
598 for less than 5 years are not subject to this limitation. The
599 millage rate of a county authorized to levy a county public
600 hospital surtax under s. 212.055 may exceed the maximum millage
601 rate calculated pursuant to this subsection to the extent
602 necessary to account for the revenues required to be contributed
603 to the county public hospital. Total taxes levied may exceed the
604 maximum calculated pursuant to subsection (6) as a result of an
605 increase in taxable value above that certified in subsection (1)
606 if such increase is less than the percentage amounts contained
607 in subsection (6) or if the administrative adjustment cannot be
608 made because the value adjustment board is still in session at
609 the time the tax roll is extended; otherwise, millage rates

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610 subject to this subsection ~~or s. 200.185~~ may be reduced so that
611 total taxes levied do not exceed the maximum.

612
613 Any unit of government operating under a home rule charter
614 adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State
615 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
616 State Constitution of 1968, which is granted the authority in
617 the State Constitution to exercise all the powers conferred now
618 or hereafter by general law upon municipalities and which
619 exercises such powers in the unincorporated area shall be
620 recognized as a municipality under this subsection. For a
621 downtown development authority established before the effective
622 date of the 1968 State Constitution which has a millage that
623 must be approved by a municipality, the governing body of that
624 municipality shall be considered the governing body of the
625 downtown development authority for purposes of this subsection.

626 (13)

627 (d) If any county or municipality, dependent special
628 district of such county or municipality, or municipal service
629 taxing unit of such county is in violation of subsection (5) ~~or~~
630 ~~s. 200.185~~ because total county or municipal ad valorem taxes
631 exceeded the maximum total county or municipal ad valorem taxes,
632 respectively, that county or municipality shall forfeit the
633 distribution of local government half-cent sales tax revenues
634 during the 12 months following a determination of noncompliance
635 by the Department of Revenue as described in s. 218.63(3) and
636 this subsection. If the executive director of the Department of
637 Revenue determines that any county or municipality, dependent
638 special district of such county or municipality, or municipal

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639 service taxing unit of such county is in violation of subsection
 640 (5) ~~of s. 200.185~~, the Department of Revenue and the county or
 641 municipality, dependent special district of such county or
 642 municipality, or municipal service taxing unit of such county
 643 shall follow the procedures set forth in this paragraph or
 644 paragraph (e). During the pendency of any procedure under
 645 paragraph (e) or any administrative or judicial action to
 646 challenge any action taken under this subsection, the tax
 647 collector shall hold in escrow any revenues collected by the
 648 noncomplying county or municipality, dependent special district
 649 of such county or municipality, or municipal service taxing unit
 650 of such county in excess of the amount allowed by subsection (5)
 651 ~~of s. 200.185~~, as determined by the executive director. Such
 652 revenues shall be held in escrow until the process required by
 653 paragraph (e) is completed and approved by the department. The
 654 department shall direct the tax collector to so hold such funds.
 655 If the county or municipality, dependent special district of
 656 such county or municipality, or municipal service taxing unit of
 657 such county remedies the noncompliance, any moneys collected in
 658 excess of the new levy or in excess of the amount allowed by
 659 subsection (5) ~~of s. 200.185~~ shall be held in reserve until the
 660 subsequent fiscal year and shall then be used to reduce ad
 661 valorem taxes otherwise necessary. If the county or
 662 municipality, dependent special district of such county or
 663 municipality, or municipal service taxing unit of such county
 664 does not remedy the noncompliance, the provisions of s. 218.63
 665 shall apply.

666 (e) The following procedures shall be followed when the
 667 executive director notifies any county or municipality,

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668 dependent special district of such county or municipality, or
 669 municipal service taxing unit of such county that he or she has
 670 determined that such taxing authority is in violation of
 671 subsection (5) ~~of s. 200.185~~:

672 1. Within 30 days after the deadline for certification of
 673 compliance required by s. 200.068, the executive director shall
 674 notify any such county or municipality, dependent special
 675 district of such county or municipality, or municipal service
 676 taxing unit of such county of his or her determination regarding
 677 subsection (5) ~~of s. 200.185~~ and that such taxing authority is
 678 subject to subparagraph 2.

679 2. Any taxing authority so noticed by the executive
 680 director shall repeat the hearing and notice process required by
 681 paragraph (2) (d), except that:

682 a. The advertisement shall appear within 15 days after
 683 notice from the executive director.

684 b. The advertisement, in addition to meeting the
 685 requirements of subsection (3), must contain the following
 686 statement in boldfaced type immediately after the heading:
 687

688 THE PREVIOUS NOTICE PLACED BY THE ...(name of taxing
 689 authority)... HAS BEEN DETERMINED BY THE DEPARTMENT OF REVENUE
 690 TO BE IN VIOLATION OF THE LAW, NECESSITATING THIS SECOND NOTICE.
 691

692 c. The millage newly adopted at such hearing shall not be
 693 forwarded to the tax collector or property appraiser and may not
 694 exceed the rate previously adopted or the amount allowed by
 695 subsection (5) ~~of s. 200.185~~. Each taxing authority provided
 696 notice pursuant to this paragraph shall recertify compliance

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697 with this chapter as provided in this section within 15 days
698 after the adoption of a millage at such hearing.

699 d. The determination of the executive director shall be
700 superseded if the executive director determines that the county
701 or municipality, dependent special district of such county or
702 municipality, or municipal service taxing unit of such county
703 has remedied the noncompliance. Such noncompliance shall be
704 determined to be remedied if any such taxing authority provided
705 notice by the executive director pursuant to this paragraph
706 adopts a new millage that does not exceed the maximum millage
707 allowed for such taxing authority under paragraph (5) (a) ~~or s.~~
708 ~~200.185(1)-(5)~~, or if any such county or municipality, dependent
709 special district of such county or municipality, or municipal
710 service taxing unit of such county adopts a lower millage
711 sufficient to reduce the total taxes levied such that total
712 taxes levied do not exceed the maximum as provided in paragraph
713 (5) (b) ~~or s. 200.185(8)~~.

714 e. If any such county or municipality, dependent special
715 district of such county or municipality, or municipal service
716 taxing unit of such county has not remedied the noncompliance or
717 recertified compliance with this chapter as provided in this
718 paragraph, and the executive director determines that the
719 noncompliance has not been remedied or compliance has not been
720 recertified, the county or municipality shall forfeit the
721 distribution of local government half-cent sales tax revenues
722 during the 12 months following a determination of noncompliance
723 by the Department of Revenue as described in s. 218.63(2) and
724 (3) and this subsection.

725 f. The determination of the executive director is not

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726 subject to chapter 120.

727 Reviser's note.—Amended to conform to the repeal of s. 200.185
728 by this act.

729 Section 18. Section 200.068, Florida Statutes, is amended
730 to read:

731 200.068 Certification of compliance with this chapter.—Not
732 later than 30 days following adoption of an ordinance or
733 resolution establishing a property tax levy, each taxing
734 authority shall certify compliance with the provisions of this
735 chapter to the Department of Revenue. In addition to a statement
736 of compliance, such certification shall include a copy of the
737 ordinance or resolution so adopted; a copy of the certification
738 of value showing rolled-back millage and proposed millage rates,
739 as provided to the property appraiser pursuant to s. 200.065(1)
740 and (2) (b); maximum millage rates calculated pursuant to s.
741 200.065(5), ~~s. 200.185~~, ~~or s. 200.186~~, together with values and
742 calculations upon which the maximum millage rates are based; and
743 a certified copy of the advertisement, as published pursuant to
744 s. 200.065(3). In certifying compliance, the governing body of
745 the county shall also include a certified copy of the notice
746 required under s. 194.037. However, if the value adjustment
747 board completes its hearings after the deadline for
748 certification under this section, the county shall submit such
749 copy to the department not later than 30 days following
750 completion of such hearings.

751 Reviser's note.—Amended to conform to the repeal of s. 200.185
752 by this act and to delete a reference to s. 200.186, which
753 was created by s. 28, ch. 2007-321, Laws of Florida,
754 effective contingent upon a constitutional amendment which

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755 did pass but for which the ballot language was ruled
 756 unconstitutional; s. 200.186 did not become effective.
 757 Section 19. Section 200.141, Florida Statutes, is amended
 758 to read:
 759 200.141 Millage following consolidation of city and county
 760 functions.—Those cities or counties which now or hereafter
 761 provide both municipal and county services as authorized under
 762 ss. 9-11 and 24 of Art. VIII of the State Constitution of 1885,
 763 as preserved by s. (6) (e), Art. VIII of the State Constitution
 764 of 1968, shall have the right to levy for county, district and
 765 municipal purposes a millage up to 20 mills on the dollar of
 766 assessed valuation under this section. For each increase in the
 767 county millage above 10 mills which is attributable to an
 768 assumption of municipal services by a county having home rule,
 769 or for each increase in the municipal millage above 10 mills
 770 which is attributable to an assumption of county services by a
 771 city having home rule, there shall be a decrease in the millage
 772 levied by each and every municipality which has a service or
 773 services assumed by the county, or by the county which has a
 774 service or services assumed by the city. Such decrease shall be
 775 equal to the cost of that service or services assumed, so that
 776 an amount equal to that cost shall be eliminated from the budget
 777 of the county or city giving up the performance of such service
 778 or services.
 779 Reviser's note.—Amended to conform to the citation style used at
 780 other provisions in the Florida Statutes citing to ss. 9-11
 781 and 24 of Art. VIII of the State Constitution of 1885,
 782 which were preserved by s. (6) (e), Art. VIII of the State
 783 Constitution of 1968.

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784 Section 20. Section 200.185, Florida Statutes, is repealed.
 785 Reviser's note.—The cited section, which relates to maximum
 786 millage rates for the 2007-2008 and 2008-2009 fiscal years,
 787 is repealed to delete a provision that has served its
 788 purpose.
 789 Section 21. Paragraph (o) of subsection (5) of section
 790 212.08, Florida Statutes, is amended to read:
 791 212.08 Sales, rental, use, consumption, distribution, and
 792 storage tax; specified exemptions.—The sale at retail, the
 793 rental, the use, the consumption, the distribution, and the
 794 storage to be used or consumed in this state of the following
 795 are hereby specifically exempt from the tax imposed by this
 796 chapter.
 797 (5) EXEMPTIONS; ACCOUNT OF USE.—
 798 (o) *Building materials in redevelopment projects.*—
 799 1. As used in this paragraph, the term:
 800 a. "Building materials" means tangible personal property
 801 that becomes a component part of a housing project or a mixed-
 802 use project.
 803 b. "Housing project" means the conversion of an existing
 804 manufacturing or industrial building to a housing unit which is
 805 in an urban high-crime area, an enterprise zone, an empowerment
 806 zone, a Front Porch Florida Community, a designated brownfield
 807 site for which a rehabilitation agreement with the Department of
 808 Environmental Protection or a local government delegated by the
 809 Department of Environmental Protection has been executed under
 810 s. 376.80 and any abutting real property parcel within a
 811 brownfield area, or an urban infill area; and in which the
 812 developer agrees to set aside at least 20 percent of the housing

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813 units in the project for low-income and moderate-income persons
 814 or the construction in a designated brownfield area of
 815 affordable housing for persons described in s. 420.0004(9),
 816 (11), (12), or (17) or in s. 159.603(7).

817 c. "Mixed-use project" means the conversion of an existing
 818 manufacturing or industrial building to mixed-use units that
 819 include artists' studios, art and entertainment services, or
 820 other compatible uses. A mixed-use project must be located in an
 821 urban high-crime area, an enterprise zone, an empowerment zone,
 822 a Front Porch Florida Community, a designated brownfield site
 823 for which a rehabilitation agreement with the Department of
 824 Environmental Protection or a local government delegated by the
 825 Department of Environmental Protection has been executed under
 826 s. 376.80 and any abutting real property parcel within a
 827 brownfield area, or an urban infill area; and the developer must
 828 agree to set aside at least 20 percent of the square footage of
 829 the project for low-income and moderate-income housing.

830 d. "Substantially completed" has the same meaning as
 831 provided in s. 192.042(1).

832 2. Building materials used in the construction of a housing
 833 project or mixed-use project are exempt from the tax imposed by
 834 this chapter upon an affirmative showing to the satisfaction of
 835 the department that the requirements of this paragraph have been
 836 met. This exemption inures to the owner through a refund of
 837 previously paid taxes. To receive this refund, the owner must
 838 file an application under oath with the department which
 839 includes:

- 840 a. The name and address of the owner.
- 841 b. The address and assessment roll parcel number of the

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842 project for which a refund is sought.

843 c. A copy of the building permit issued for the project.

844 d. A certification by the local building code inspector
 845 that the project is substantially completed.

846 e. A sworn statement, under penalty of perjury, from the
 847 general contractor licensed in this state with whom the owner
 848 contracted to construct the project, which statement lists the
 849 building materials used in the construction of the project and
 850 the actual cost thereof, and the amount of sales tax paid on
 851 these materials. If a general contractor was not used, the owner
 852 shall provide this information in a sworn statement, under
 853 penalty of perjury. Copies of invoices evidencing payment of
 854 sales tax must be attached to the sworn statement.

855 3. An application for a refund under this paragraph must be
 856 submitted to the department within 6 months after the date the
 857 project is deemed to be substantially completed by the local
 858 building code inspector. Within 30 working days after receipt of
 859 the application, the department shall determine if it meets the
 860 requirements of this paragraph. A refund approved pursuant to
 861 this paragraph shall be made within 30 days after formal
 862 approval of the application by the department.

863 4. The department shall establish by rule an application
 864 form and criteria for establishing eligibility for exemption
 865 under this paragraph.

866 5. The exemption shall apply to purchases of materials on
 867 or after July 1, 2000.

868 Reviser's note.—Amended to confirm the editorial insertion of
 869 the word "Florida" to conform to the full title of
 870 communities receiving grants through the Front Porch

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871 Florida Initiative.

872 Section 22. Subsection (8) of section 213.0532, Florida

873 Statutes, is amended to read:

874 213.0532 Information-sharing agreements with financial

875 institutions.—

876 (8) Any financial records obtained pursuant to this section

877 may be disclosed only for the purpose of, and to the extent

878 necessary for, administration and enforcement of ~~to administer~~

879 ~~and enforce~~ the tax laws of this state.

880 Reviser's note.—Amended to improve sentence construction.

881 Section 23. Paragraph (b) of subsection (5) of section

882 218.39, Florida Statutes, is amended to read:

883 218.39 Annual financial audit reports.—

884 (5) At the conclusion of the audit, the auditor shall

885 discuss with the chair of the governing body of the local

886 governmental entity or the chair's designee, the elected

887 official of each county agency or the elected official's

888 designee, the chair of the district school board or the chair's

889 designee, the chair of the board of the charter school or the

890 chair's designee, or the chair of the board of the charter

891 technical career center or the chair's designee, as appropriate,

892 all of the auditor's comments that will be included in the audit

893 report. If the officer is not available to discuss the auditor's

894 comments, their discussion is presumed when the comments are

895 delivered in writing to his or her office. The auditor shall

896 notify each member of the governing body of a local governmental

897 entity, district school board, charter school, or charter

898 technical career center for which:

899 (b) A fund balance deficit in total or a deficit for that

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900 portion of a fund balance not classified as restricted,

901 committed, or nonspendable, or a total or unrestricted net

902 assets deficit, as reported on the fund financial statements of

903 entities required to report under governmental financial

904 reporting standards or on the basic financial statements of

905 entities required to report under not-for-profit financial

906 reporting standards, for which sufficient resources of the local

907 governmental entity, charter school, charter technical career

908 center, or district school board, as reported on the fund

909 financial statements, are not available to cover the deficit.

910 Resources available to cover reported deficits include fund

911 balance or net assets that are not otherwise restricted by

912 federal, state, or local laws, bond covenants, contractual

913 agreements, or other legal constraints. Property, plant, and

914 equipment, the disposal of which would impair the ability of a

915 local governmental entity, charter school, charter technical

916 career center, or district school board to carry out its

917 functions, are not considered resources available to cover

918 reported deficits.

919 Reviser's note.—Amended to facilitate correct understanding.

920 Section 24. Subsection (1) of section 220.63, Florida

921 Statutes, is amended to read:

922 220.63 Franchise tax imposed on banks and savings

923 associations.—

924 (1) A franchise tax measured by net income is hereby

925 imposed on every bank and savings association for each taxable

926 year commencing on or after January 1, 1973, ~~and for each~~

927 ~~taxable year which begins before and ends after January 1, 1973.~~

928 ~~The franchise tax base of any bank for a taxable year which~~

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929 ~~begins before and ends after January 1, 1972, shall be prorated~~
 930 ~~in the manner prescribed for the proration of net income under~~
 931 ~~s. 220.12(2).~~

932 Reviser's note.—Amended to delete an obsolete provision and
 933 conform to the repeal of s. 220.12(2) by s. 14, ch. 90-203,
 934 Laws of Florida.

935 Section 25. Paragraph (c) of subsection (3) of section
 936 238.05, Florida Statutes, is amended to read:
 937 238.05 Membership.—
 938 (3) Except as otherwise provided in s. 238.07(9),
 939 membership of any person in the retirement system will cease if
 940 he or she is continuously unemployed as a teacher for a period
 941 of more than 5 consecutive years, or upon the withdrawal by the
 942 member of his or her accumulated contributions as provided in s.
 943 238.07(13), or upon retirement, or upon death; provided that the
 944 adjustments prescribed below are to be made for persons who
 945 enter the Armed Forces of the United States during a period of
 946 war or national emergency and for persons who are granted leaves
 947 of absence. Any member of the retirement system who within 1
 948 year before the time of entering the Armed Forces of the United
 949 States was a teacher, as defined in s. 238.01, or was engaged in
 950 other public educational work within the state, and member of
 951 the Teachers' Retirement System at the time of induction, or who
 952 has been or is granted leave of absence, shall be permitted to
 953 elect to continue his or her membership in the Teachers'
 954 Retirement System; and membership service shall be allowed for
 955 the period covered by service in the Armed Forces of the United
 956 States or by leave of absence under the following conditions:
 957 ~~(c) Any person who served in the Armed Forces of the United~~

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958 ~~States in World War I, or who served as a registered nurse or~~
 959 ~~nurse's aide in service connected with the Armed Forces of the~~
 960 ~~United States during the period of World War I, and who is now a~~
 961 ~~member of the Teachers' Retirement System and who, at or before~~
 962 ~~the time of entering the Armed Forces or the service of the care~~
 963 ~~and nursing of members of the Armed Forces of the United States,~~
 964 ~~was a teacher as defined in s. 238.01 is entitled to prior~~
 965 ~~service and out of state prior service credit in the Teachers'~~
 966 ~~Retirement System for his or her period of such service.~~

967 Reviser's note.—Amended to delete an obsolete provision.

968 Section 26. Section 255.041, Florida Statutes, is amended
 969 to read:
 970 255.041 Separate specifications for building contracts.—
 971 Every officer, board, department, or commission ~~or commissions~~
 972 charged with the duty of preparing specifications or awarding or
 973 entering into contract for the erection, construction, or
 974 altering of buildings for the state, when the entire cost of
 975 such work shall exceed \$10,000, may have prepared separate
 976 specifications for each of the following branches of work to be
 977 performed:
 978 (1) Heating and ventilating and accessories.
 979 (2) Plumbing and gas fitting and accessories.
 980 (3) Electrical installations.
 981 (4) Air-conditioning, for the purpose of comfort cooling by
 982 the lowering of temperature, and accessories.

983
 984 All such specifications may be so drawn as to permit separate
 985 and independent bidding upon each of the classes of work
 986 enumerated in the above subdivisions. All contracts hereafter

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987 awarded by the state or a department, board, commissioner, or
 988 officer thereof, for the erection, construction or alteration of
 989 buildings, or any part thereof, may award the respective work
 990 specified in the above subdivisions separately to responsible
 991 and reliable persons, firms or corporations regularly engaged in
 992 their respective line of work; provided, however, that all or
 993 any part of the work specified in the above subdivisions may be
 994 awarded to the same contractor.

995 Reviser's note.—Amended to improve clarity.

996 Section 27. Subsection (2) of section 255.254, Florida
 997 Statutes, is amended to read:

998 255.254 No facility constructed or leased without life-
 999 cycle costs.—

1000 (2) ~~On and after January 1, 1979,~~ No state agency shall
 1001 initiate construction or have construction initiated, prior to
 1002 approval thereof by the department, on a facility or self-
 1003 contained unit of any facility, the design and construction of
 1004 which incorporates or contemplates the use of an energy system
 1005 other than a solar energy system when the life-cycle costs
 1006 analysis prepared by the department has determined that a solar
 1007 energy system is the most cost-efficient energy system for the
 1008 facility or unit.

1009 Reviser's note.—Amended to delete an obsolete provision.

1010 Section 28. Paragraph (b) of subsection (9) of section
 1011 259.032, Florida Statutes, is amended to read:

1012 259.032 Conservation and recreation lands.—

1013 (9)

1014 (b) An amount of not less than 1.5 percent of the
 1015 cumulative total of funds ever deposited into the former Florida

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1016 Preservation 2000 Trust Fund and the Florida Forever Trust Fund
 1017 shall be made available for the purposes of management,
 1018 maintenance, and capital improvements, and for associated
 1019 contractual services, for conservation and recreation lands
 1020 acquired with funds deposited into the Land Acquisition Trust
 1021 Fund pursuant to s. 28(a), Art. X of the State Constitution or
 1022 pursuant to former s. 259.032, Florida Statutes 2014, former s.
 1023 259.101, Florida Statutes 2014, s. 259.105, s. 259.1052, or
 1024 previous programs for the acquisition of lands for conservation
 1025 and recreation, including state forests, to which title is
 1026 vested in the board of trustees and other conservation and
 1027 recreation lands managed by a state agency. Each agency with
 1028 management responsibilities shall annually request from the
 1029 Legislature funds sufficient to fulfill such responsibilities to
 1030 implement individual management plans. For the purposes of this
 1031 paragraph, capital improvements shall include, but need not be
 1032 limited to, perimeter fencing, signs, firelanes, access roads
 1033 and trails, and minimal public accommodations, such as primitive
 1034 campsites, garbage receptacles, and toilets. Any equipment
 1035 purchased with funds provided pursuant to this paragraph may be
 1036 used for the purposes described in this paragraph on any
 1037 conservation and recreation lands managed by a state agency. The
 1038 funding requirement created in this paragraph is subject to an
 1039 annual evaluation by the Legislature to ensure that such
 1040 requirement does not impact the respective trust fund in a
 1041 manner that would prevent the trust fund from meeting other
 1042 minimum requirements.

1043 Reviser's note.—Amended to conform to the termination of the
 1044 Florida Preservation 2000 Trust Fund pursuant to s. 1, ch.

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1045 2015-229, Laws of Florida, and the repeal of s. 375.045,
 1046 which created the trust fund, by s. 52, ch. 2015-229.
 1047 Section 29. Paragraph (d) of subsection (2) of section
 1048 272.135, Florida Statutes, is amended to read:
 1049 272.135 Florida Historic Capitol Museum Director.—
 1050 (2) The director shall:
 1051 (d) Propose a strategic plan to the President of the Senate
 1052 and the Speaker of the House of Representatives by May 1 of each
 1053 year in which a general election is held and ~~shall~~ propose an
 1054 annual operating plan.
 1055 Reviser's note.—Amended to confirm the editorial deletion of the
 1056 world "shall."
 1057 Section 30. Subsection (4) of section 288.012, Florida
 1058 Statutes, is amended to read:
 1059 288.012 State of Florida international offices; state
 1060 protocol officer; protocol manual.—The Legislature finds that
 1061 the expansion of international trade and tourism is vital to the
 1062 overall health and growth of the economy of this state. This
 1063 expansion is hampered by the lack of technical and business
 1064 assistance, financial assistance, and information services for
 1065 businesses in this state. The Legislature finds that these
 1066 businesses could be assisted by providing these services at
 1067 State of Florida international offices. The Legislature further
 1068 finds that the accessibility and provision of services at these
 1069 offices can be enhanced through cooperative agreements or
 1070 strategic alliances between private businesses and state, local,
 1071 and international governmental entities.
 1072 (4) The Department of Economic Opportunity, in connection
 1073 with the establishment, operation, and management of any of its

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1074 offices located in another country, is exempt from the
 1075 provisions of ss. 255.21, 255.25, and 255.254 relating to
 1076 leasing of buildings; ss. 283.33 and 283.35 relating to bids for
 1077 printing; ss. 287.001-287.20 relating to purchasing and motor
 1078 vehicles; and ss. 282.003-282.00515 ~~282.003-282.0056~~ and
 1079 282.702-282.7101 relating to communications, and from all
 1080 statutory provisions relating to state employment.
 1081 (a) The department may exercise such exemptions only upon
 1082 prior approval of the Governor.
 1083 (b) If approval for an exemption under this section is
 1084 granted as an integral part of a plan of operation for a
 1085 specified international office, such action shall constitute
 1086 continuing authority for the department to exercise the
 1087 exemption, but only in the context and upon the terms originally
 1088 granted. Any modification of the approved plan of operation with
 1089 respect to an exemption contained therein must be resubmitted to
 1090 the Governor for his or her approval. An approval granted to
 1091 exercise an exemption in any other context shall be restricted
 1092 to the specific instance for which the exemption is to be
 1093 exercised.
 1094 (c) As used in this subsection, the term "plan of
 1095 operation" means the plan developed pursuant to subsection (2).
 1096 (d) Upon final action by the Governor with respect to a
 1097 request to exercise the exemption authorized in this subsection,
 1098 the department shall report such action, along with the original
 1099 request and any modifications thereto, to the President of the
 1100 Senate and the Speaker of the House of Representatives within 30
 1101 days.
 1102 Reviser's note.—Amended to conform to the repeal of s. 282.0056

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1103 by s. 12, ch. 2014-221, Laws of Florida.
 1104 Section 31. Paragraph (b) of subsection (4) of section
 1105 311.12, Florida Statutes, is amended to read:
 1106 311.12 Seaport security.—
 1107 (4) ACCESS TO SECURE AND RESTRICTED AREAS.—
 1108 (b) A seaport may not charge a fee for the administration
 1109 or production of any access control credential that requires or
 1110 is associated with a fingerprint-based background check, in
 1111 addition to the fee for the federal TWIC. Beginning July 1,
 1112 2013, a seaport may not charge a fee for a seaport-specific
 1113 access credential issued in addition to the federal TWIC, except
 1114 under the following circumstances:
 1115 1. The individual seeking to gain secured access is a new
 1116 hire as defined under 33 C.F.R. part ~~s.~~ 105; or
 1117 2. The individual has lost or misplaced his or her federal
 1118 TWIC.
 1119 Reviser's note.—Amended to facilitate correct interpretation.
 1120 There is no 33 C.F.R. s. 105; there is a 33 C.F.R. part
 1121 105, which relates to security of maritime facilities.
 1122 Section 32. Subsection (5) of section 316.3025, Florida
 1123 Statutes, is amended to read:
 1124 316.3025 Penalties.—
 1125 (5) Whenever any person or motor carrier as defined in
 1126 chapter 320 violates the provisions of this section and becomes
 1127 indebted to the state because of such violation and refuses to
 1128 pay the appropriate penalty, in addition to the provisions of s.
 1129 316.3026, such penalty becomes a lien upon the property
 1130 including the motor vehicles of such person or motor carrier and
 1131 such property may be seized and foreclosed by the state in a

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1132 civil action in any court of this state. It shall be presumed
 1133 that the owner of the motor vehicle is liable for the sum, and
 1134 the vehicle may be detained or impounded until the penalty is
 1135 paid.
 1136 Reviser's note.—Amended to improve clarity.
 1137 Section 33. Paragraph (c) of subsection (3) of section
 1138 333.07, Florida Statutes, is amended to read:
 1139 333.07 Permits and variances.—
 1140 (3) OBSTRUCTION MARKING AND LIGHTING.—
 1141 ~~(c) Existing structures not in compliance on October 1,~~
 1142 ~~1988, shall be required to comply whenever the existing marking~~
 1143 ~~requires refurbishment, whenever the existing lighting requires~~
 1144 ~~replacement, or within 5 years of October 1, 1988, whichever~~
 1145 ~~occurs first.~~
 1146 Reviser's note.—Amended to delete an obsolete provision.
 1147 Section 34. Subsection (2) of section 336.71, Florida
 1148 Statutes, is amended to read:
 1149 336.71 Public-private cooperation in construction of county
 1150 roads.—
 1151 (2) The notice for the public hearing provided for in
 1152 subsection (1) must be published at least 14 days before the
 1153 date of the public meeting at which the governing board takes
 1154 final action. The notice must identify the project and, the
 1155 estimated cost of the project, and specify that the purpose for
 1156 the public meeting is to consider whether it is in the public's
 1157 best interest to accept the proposal and enter into an agreement
 1158 pursuant thereto. The determination of cost savings pursuant to
 1159 paragraph (1) (e) must be supported by a professional engineer's
 1160 cost estimate made available to the public at least 14 days

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1161 before the public meeting and placed in the record for that
 1162 meeting.
 1163 Reviser's note.—Amended to improve clarity.
 1164 Section 35. Subsection (13) of section 343.1003, Florida
 1165 Statutes, is amended to read:
 1166 343.1003 Northeast Florida Regional Transportation
 1167 Commission.—
 1168 (13) There shall be no liability on the part of, and no
 1169 cause of action may arise against, any member for any action
 1170 taken in the performance of his or her duties under this part.
 1171 Reviser's note.—Amended to improve clarity.
 1172 Section 36. Paragraph (e) of subsection (1) of section
 1173 366.95, Florida Statutes, is amended to read:
 1174 366.95 Financing for certain nuclear generating asset
 1175 retirement or abandonment costs.—
 1176 (1) DEFINITIONS.—As used in this section, the term:
 1177 (e) "Financing costs" means:
 1178 1. Interest and acquisition, defeasance, or redemption
 1179 premiums payable on nuclear asset-recovery bonds;
 1180 2. Any payment required under an ancillary agreement and
 1181 any amount required to fund or replenish a reserve account or
 1182 other accounts established under the terms of any indenture,
 1183 ancillary agreement, or other financing documents pertaining to
 1184 nuclear asset-recovery bonds;
 1185 3. Any other cost related to issuing, supporting, repaying,
 1186 refunding, and servicing nuclear asset-recovery bonds,
 1187 including, but not limited to, servicing fees, accounting and
 1188 auditing fees, trustee fees, legal fees, consulting fees,
 1189 financial adviser fees, administrative fees, placement and

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1190 underwriting fees, capitalized interest, rating agency fees,
 1191 stock exchange listing and compliance fees, security
 1192 registration fees, filing fees, information technology
 1193 programming costs, and any other costs necessary to otherwise
 1194 ensure the timely payment of nuclear asset-recovery bonds or
 1195 other amounts or charges payable in connection with the bonds,
 1196 including costs related to obtaining the financing order;
 1197 4. Any taxes and license fees imposed on the revenues
 1198 generated from the collection of the nuclear asset-recovery
 1199 charge;
 1200 5. Any state and local taxes, franchise fees, gross
 1201 receipts taxes, and other taxes or similar charges, including,
 1202 but not limited to, regulatory assessment fees, in any such case
 1203 whether paid, payable, or accrued; and
 1204 6. Any costs incurred by the commission for any outside
 1205 consultants or counsel pursuant to subparagraph (2)(c)2.
 1206 Reviser's note.—Amended to improve clarity and facilitate
 1207 correct interpretation.
 1208 Section 37. Subsection (8) of section 373.236, Florida
 1209 Statutes, is amended to read:
 1210 373.236 Duration of permits; compliance reports.—
 1211 (8) A water management district may issue a permit to an
 1212 applicant, as set forth in s. 163.3245(13), for the same period
 1213 of time as the applicant's approved master development order if
 1214 the master development order was issued under s. 380.06(21) by a
 1215 county which, at the time the order was issued, was designated
 1216 as a rural area of opportunity under s. 288.0656, was not
 1217 located in an area encompassed by a regional water supply plan
 1218 as set forth in s. 373.709(1), and was not located within the

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1219 basin management action plan of a first magnitude spring. In
 1220 reviewing the permit application and determining the permit
 1221 duration, the water management district shall apply s.
 1222 163.3245(4)(b).

1223 Reviser's note.—Amended to confirm the editorial insertion of
 1224 the word "was" to improve clarity.

1225 Section 38. Subsections (4) and (5) of section 373.4149,
 1226 Florida Statutes, are amended to read:
 1227 373.4149 Miami-Dade County Lake Belt Plan.—

1228 (4) The identification of the Miami-Dade County Lake Belt
 1229 Area shall not preempt local land use jurisdiction, planning, or
 1230 regulatory authority in regard to the use of land by private
 1231 land owners. When amending local comprehensive plans, or
 1232 implementing zoning regulations, development regulations, or
 1233 other local regulations, Miami-Dade County shall strongly
 1234 consider limestone mining activities and ancillary operations,
 1235 such as lake excavation, including use of explosives, rock
 1236 processing, cement, concrete and asphalt products manufacturing,
 1237 and ancillary activities, within the rock mining supported and
 1238 allowable areas of the Miami-Dade County Lake Belt Plan adopted
 1239 by subsection (1); provided, however, that limerock mining
 1240 activities are consistent with wellfield protection. Rezoning,
 1241 amendments to local zoning and subdivision regulations, and
 1242 amendments to local comprehensive plans concerning properties
 1243 that are located within 1 mile of the Miami-Dade County Lake
 1244 Belt Area shall be compatible with limestone mining activities.
 1245 No rezonings, variances, amendments to local zoning and
 1246 subdivision regulations which would result in an increase in
 1247 residential density, or amendments to local comprehensive plans

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1248 for any residential purpose may be approved for any property
 1249 located in sections 35 and 36 and the east one-half of sections
 1250 24 and 25, Township 53 South, Range 39 East until such time as
 1251 there is no active mining within 2 miles of the property. This
 1252 section does not preclude residential development that complies
 1253 with current regulations.

1254 (5) The secretary of the Department of Environmental
 1255 Protection, the executive director of the Department of Economic
 1256 Opportunity, the secretary of the Department of Transportation,
 1257 the Commissioner of Agriculture, the executive director of the
 1258 Fish and Wildlife Conservation Commission, and the executive
 1259 director of the South Florida Water Management District may
 1260 enter into agreements with landowners, developers, businesses,
 1261 industries, individuals, and governmental agencies as necessary
 1262 to effectuate the Miami-Dade County Lake Belt Plan and the
 1263 provisions of this section.

1264 Reviser's note.—Amended to conform to context and to the full
 1265 names of the Miami-Dade County Lake Belt Area and the
 1266 Miami-Dade County Lake Belt Plan.

1267 Section 39. Subsection (7) of section 373.41492, Florida
 1268 Statutes, is amended to read:
 1269 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
 1270 mitigation for mining activities within the Miami-Dade County
 1271 Lake Belt.—

1272 (7) Payment of the mitigation fee imposed by this section
 1273 satisfies the mitigation requirements imposed under ss. 373.403-
 1274 373.439 and any applicable county ordinance for loss of the
 1275 value and functions from mining of the wetlands identified as
 1276 rock mining supported and allowable areas of the Miami-Dade

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1277 County Lake Belt Plan adopted by s. 373.4149(1). In addition, it
 1278 is the intent of the Legislature that the payment of the
 1279 mitigation fee imposed by this section satisfy all federal
 1280 mitigation requirements for the wetlands mined.
 1281 Reviser's note.—Amended to conform to context and to the full
 1282 name of the Miami-Dade County Lake Belt Plan.
 1283 Section 40. Paragraph (g) of subsection (1) of section
 1284 379.3751, Florida Statutes, is amended to read:
 1285 379.3751 Taking and possession of alligators; trapping
 1286 licenses; fees.—
 1287 (1)
 1288 (g) A person engaged in the taking of alligators under any
 1289 permit issued by the commission which authorizes the taking ~~take~~
 1290 of alligators is not required to possess a management area
 1291 permit under s. 379.354(8).
 1292 Reviser's note.—Amended to confirm the editorial substitution of
 1293 the word "taking" for the word "take" to improve clarity.
 1294 Section 41. Paragraph (b) of subsection (7) of section
 1295 380.510, Florida Statutes, is amended to read:
 1296 380.510 Conditions of grants and loans.—
 1297 (7) Any funds received by the trust pursuant to s.
 1298 259.105(3) (c) or s. 375.041 shall be held separate and apart
 1299 from any other funds held by the trust and used for the land
 1300 acquisition purposes of this part.
 1301 (b) All deeds or leases with respect to any real property
 1302 acquired with funds received by the trust from the former
 1303 Preservation 2000 Trust Fund, the Florida Forever Trust Fund, or
 1304 the Land Acquisition Trust Fund must contain such covenants and
 1305 restrictions as are sufficient to ensure that the use of such

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1306 real property at all times complies with s. 375.051 and s. 9,
 1307 Art. XII of the State Constitution. Each deed or lease with
 1308 respect to any real property acquired with funds received by the
 1309 trust from the Florida Forever Trust Fund before July 1, 2015,
 1310 must contain covenants and restrictions sufficient to ensure
 1311 that the use of such real property at all times complies with s.
 1312 11(e), Art. VII of the State Constitution. Each deed or lease
 1313 with respect to any real property acquired with funds received
 1314 by the trust from the Florida Forever Trust Fund after July 1,
 1315 2015, must contain covenants and restrictions sufficient to
 1316 ensure that the use of such real property at all times complies
 1317 with s. 28, Art. X of the State Constitution. Each deed or lease
 1318 must contain a reversion, conveyance, or termination clause that
 1319 vests title in the Board of Trustees of the Internal Improvement
 1320 Trust Fund if any of the covenants or restrictions are violated
 1321 by the titleholder or leaseholder or by some third party with
 1322 the knowledge of the titleholder or leaseholder.
 1323 Reviser's note.—Amended to conform to the termination of the
 1324 Florida Preservation 2000 Trust Fund pursuant to s. 1, ch.
 1325 2015-229, Laws of Florida, and the repeal of s. 375.045,
 1326 which created the trust fund, by s. 52, ch. 2015-229.
 1327 Section 42. Paragraph (g) of subsection (5) of section
 1328 383.402, Florida Statutes, is amended to read:
 1329 383.402 Child abuse death review; State Child Abuse Death
 1330 Review Committee; local child abuse death review committees.—
 1331 (5) ACCESS TO AND USE OF RECORDS.—
 1332 (g) A person who has attended a meeting of the state
 1333 committee or a local committee or who has otherwise participated
 1334 in activities authorized by this section may not be permitted or

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1335 required to testify in any civil, criminal, or administrative
 1336 proceeding as to any records or information produced or
 1337 presented to a committee during meetings or other activities
 1338 authorized by this section. However, this paragraph subsection
 1339 does not prevent any person who testifies before the committee
 1340 or who is a member of the committee from testifying as to
 1341 matters otherwise within his or her knowledge. An organization,
 1342 institution, committee member, or other person who furnishes
 1343 information, data, reports, or records to the state committee or
 1344 a local committee is not liable for damages to any person and is
 1345 not subject to any other civil, criminal, or administrative
 1346 recourse. This paragraph subsection does not apply to any person
 1347 who admits to committing a crime.

1348 Reviser's note.—Amended to confirm the editorial substitution of
 1349 the word "paragraph" for the word "subsection" to conform
 1350 to the redesignation of subsection (14) as paragraph (5) (g)
 1351 by s. 4, ch. 2015-79, Laws of Florida.

1352 Section 43. Subsection (1) of section 395.1012, Florida
 1353 Statutes, is amended to read:

1354 395.1012 Patient safety.—

1355 (1) Each licensed facility must adopt a patient safety
 1356 plan. A plan adopted to implement the requirements of 42 C.F.R.
 1357 s. part 482.21 shall be deemed to comply with this requirement.

1358 Reviser's note.—Amended to facilitate correct interpretation.
 1359 There is no 42 C.F.R. part 482.21; there is a 42 C.F.R. s.
 1360 482.21, which requires a program for quality improvement
 1361 and patient safety.

1362 Section 44. Paragraph (d) of subsection (1) of section
 1363 400.0065, Florida Statutes, is amended to read:

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1364 400.0065 State Long-Term Care Ombudsman Program; duties and
 1365 responsibilities.—

1366 (1) The purpose of the State Long-Term Care Ombudsman
 1367 Program is to:

1368 (d) Ensure that residents have regular and timely access to
 1369 the services provided through the State Long-Term Care Ombudsman
 1370 Program and that residents and complainants receive timely
 1371 responses from representatives of the State Long-Term Care
 1372 Ombudsman Program to their complaints.

1373 Reviser's note.—Amended to confirm the editorial insertion of
 1374 the word "Ombudsman" to conform to the name of the program
 1375 established in s. 400.0063.

1376 Section 45. Paragraph (a) of subsection (3) of section
 1377 400.0070, Florida Statutes, is amended to read:

1378 400.0070 Conflicts of interest.—

1379 (3) The department, in consultation with the state
 1380 ombudsman, shall define by rule:

1381 (a) Situations that constitute a conflict of interest which
 1382 could materially affect the objectivity or capacity of an
 1383 individual to serve as a representative of the State Long-Term
 1384 Care Ombudsman Program while carrying out the purposes of the
 1385 State Long-Term Care Ombudsman Program as specified in this
 1386 part.

1387 Reviser's note.—Amended to confirm the editorial insertion of
 1388 the word "Ombudsman" to conform to the name of the program
 1389 established in s. 400.0063.

1390 Section 46. Subsection (1) of section 400.0081, Florida
 1391 Statutes, is amended to read:

1392 400.0081 Access to facilities, residents, and records.—

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1393 (1) A long-term care facility shall provide representatives
 1394 of the State Long-Term Care Ombudsman Program with access to:
 1395 (a) The long-term care facility and its residents.
 1396 (b) Where appropriate, medical and social records of a
 1397 resident for review if:
 1398 1. The representative of the State Long-Term Care Ombudsman
 1399 Program has the permission of the resident or the legal
 1400 representative of the resident; or
 1401 2. The resident is unable to consent to the review and does
 1402 not have a legal representative.
 1403 (c) Medical and social records of a resident as necessary
 1404 to investigate a complaint, if:
 1405 1. A legal representative or guardian of the resident
 1406 refuses to give permission;
 1407 2. The representative of the State Long-Term Care Ombudsman
 1408 Program has reasonable cause to believe that the legal
 1409 representative or guardian is not acting in the best interests
 1410 of the resident; and
 1411 3. The representative of the State Long-Term Care Ombudsman
 1412 Program obtains the approval of the state ombudsman.
 1413 (d) ~~Access to~~ Administrative records, policies, and
 1414 documents to which residents or the general public have access.
 1415 (e) Upon request, copies of all licensing and certification
 1416 records maintained by the state with respect to a long-term care
 1417 facility.
 1418 Reviser's note.—The introductory paragraph to subsection (1) is
 1419 amended to confirm the editorial insertion of the word
 1420 "Ombudsman" to conform to the name of the program
 1421 established in s. 400.0063. Paragraph (1) (d) is amended to

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1422 confirm the editorial deletion of the words "Access to" to
 1423 improve clarity.
 1424 Section 47. Paragraph (c) of subsection (3) of section
 1425 400.0087, Florida Statutes, is amended to read:
 1426 400.0087 Department oversight; funding.—
 1427 (3) The department is responsible for ensuring that the
 1428 State Long-Term Care Ombudsman Program:
 1429 (c) Provides appropriate training to representatives of the
 1430 State Long-Term Care Ombudsman Program Office.
 1431 Reviser's note.—Amended to substitute the term "State Long-Term
 1432 Care Ombudsman Program" for the term "State Long-Term Care
 1433 Ombudsman Office" to conform to context and revisions to
 1434 this material by ch. 2015-31, Laws of Florida.
 1435 Section 48. Subsection (2) of section 400.022, Florida
 1436 Statutes, is amended to read:
 1437 400.022 Residents' rights.—
 1438 (2) The licensee for each nursing home shall orally inform
 1439 the resident of the resident's rights and provide a copy of the
 1440 statement required by subsection (1) to each resident or the
 1441 resident's legal representative at or before the resident's
 1442 admission to a facility. The licensee shall provide a copy of
 1443 the resident's rights to each staff member of the facility. Each
 1444 such licensee shall prepare a written plan and provide
 1445 appropriate staff training to implement the provisions of this
 1446 section. The written statement of rights must include a
 1447 statement that a resident may file a complaint with the agency
 1448 or state or local ombudsman council. The statement must be in
 1449 boldfaced type and include the telephone number and e-mail
 1450 address of the State Long-Term Care Ombudsman Program and the

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1451 telephone numbers of the local ombudsman council and the Elder
 1452 Abuse Hotline operated by the Department of Children and
 1453 Families.
 1454 Reviser's note.—Amended to confirm the editorial insertion of
 1455 the word "and" and to insert the word "telephone" to
 1456 improve clarity.
 1457 Section 49. Paragraph (d) of subsection (1) of section
 1458 400.141, Florida Statutes, is amended to read:
 1459 400.141 Administration and management of nursing home
 1460 facilities.—
 1461 (1) Every licensed facility shall comply with all
 1462 applicable standards and rules of the agency and shall:
 1463 (d) Provide for resident use of a community pharmacy as
 1464 specified in s. 400.022(1)(q). Any other law to the contrary
 1465 notwithstanding, a registered pharmacist licensed in Florida,
 1466 that is under contract with a facility licensed under this
 1467 chapter or chapter 429, shall repackage a nursing facility
 1468 resident's bulk prescription medication which has been packaged
 1469 by another pharmacist licensed in any state in the United States
 1470 into a unit dose system compatible with the system used by the
 1471 nursing facility, if the pharmacist is requested to offer such
 1472 service. In order to be eligible for the repackaging, a resident
 1473 or the resident's spouse must receive prescription medication
 1474 benefits provided through a former employer as part of his or
 1475 her retirement benefits, a qualified pension plan as specified
 1476 in s. 4972 of the Internal Revenue Code, a federal retirement
 1477 program as specified under 5 C.F.R. part s- 831, or a long-term
 1478 care policy as defined in s. 627.9404(1). A pharmacist who
 1479 correctly repackages and relabels the medication and the nursing

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1480 facility which correctly administers such repackaged medication
 1481 under this paragraph may not be held liable in any civil or
 1482 administrative action arising from the repackaging. In order to
 1483 be eligible for the repackaging, a nursing facility resident for
 1484 whom the medication is to be repackaged shall sign an informed
 1485 consent form provided by the facility which includes an
 1486 explanation of the repackaging process and which notifies the
 1487 resident of the immunities from liability provided in this
 1488 paragraph. A pharmacist who repackages and relabels prescription
 1489 medications, as authorized under this paragraph, may charge a
 1490 reasonable fee for costs resulting from the implementation of
 1491 this provision.
 1492 Reviser's note.—Amended to facilitate correct interpretation.
 1493 There is no 5 C.F.R. s. 831; there is a 5 C.F.R. part 831,
 1494 which relates to retirement.
 1495 Section 50. Paragraph (b) of subsection (1) of section
 1496 403.5363, Florida Statutes, is amended to read:
 1497 403.5363 Public notices; requirements.—
 1498 (1)
 1499 (b) Public notices that must be published under this
 1500 section include:
 1501 1. The notice of the filing of an application, which must
 1502 include a description of the proceedings required by this act.
 1503 The notice must describe the provisions of s. 403.531(1) and (2)
 1504 and give the date by which notice of intent to be a party or a
 1505 petition to intervene in accordance with s. 403.527(2) must be
 1506 filed. This notice must be published no more than 21 days after
 1507 the application is filed. The notice shall, at a minimum, be
 1508 one-half page in size in a standard size newspaper or a full

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1509 page in a tabloid size newspaper. The notice must include a map
 1510 generally depicting all transmission corridors proper for
 1511 certification.

1512 2. The notice of the certification hearing and any public
 1513 hearing held under s. 403.527(4). The notice must include the
 1514 date by which a person wishing to appear as a party must file
 1515 the notice to do so. The notice of the originally scheduled
 1516 certification hearing must be published at least 65 days before
 1517 the date set for the certification hearing. The notice shall
 1518 meet the size and map requirements set forth in subparagraph 1.
 1519 3. The notice of the cancellation of the certification
 1520 hearing under s. 403.527(6), if applicable. The notice must be
 1521 published at least 3 days before the date of the originally
 1522 scheduled certification hearing. The notice shall, at a minimum,
 1523 be one-fourth page in size in a standard size newspaper or one-
 1524 half page in a tabloid size newspaper. The notice shall not
 1525 require a map to be included.

1526 4. The notice of the deferment of the certification hearing
 1527 due to the acceptance of an alternate corridor under s.
 1528 403.5271(1)(b)2. ~~403.5272(1)(b)2.~~ The notice must be published
 1529 at least 7 days before the date of the originally scheduled
 1530 certification hearing. The notice shall, at a minimum, be one-
 1531 eighth page in size in a standard size newspaper or one-fourth
 1532 page in a tabloid size newspaper. The notice shall not require a
 1533 map to be included.

1534 5. If the notice of the rescheduled certification hearing
 1535 required of an alternate proponent under s. 403.5271(1)(c) is
 1536 not timely published or does not meet the notice requirements
 1537 such that an alternate corridor is withdrawn under the

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1538 provisions of s. 403.5271(1)(c), the notice of the rescheduled
 1539 hearing and any local hearings shall be provided by the
 1540 applicant at least 30 days prior to the rescheduled
 1541 certification hearing.

1542 6. The notice of the filing of a proposal to modify the
 1543 certification submitted under s. 403.5315, if the department
 1544 determines that the modification would require relocation or
 1545 expansion of the transmission line right-of-way or a certified
 1546 substation.

1547 Reviser's note.—Amended to conform to context and facilitate
 1548 correct interpretation. Section 403.5272(1)(b)2. does not
 1549 exist; s. 403.5271(1)(b)2. relates to certification
 1550 hearings for alternate corridors.

1551 Section 51. Section 408.301, Florida Statutes, is amended
 1552 to read:

1553 408.301 Legislative findings.—The Legislature has found
 1554 that access to quality, affordable, health care for all
 1555 Floridians is an important goal for the state. The Legislature
 1556 recognizes that there are Floridians with special health care
 1557 and social needs which require particular attention. The people
 1558 served by the Department of Children and Families, the Agency
 1559 for Persons with Disabilities, the Department of Health, and the
 1560 Department of Elderly Affairs are examples of citizens with
 1561 special needs. The Legislature further recognizes that the
 1562 Medicaid program is an intricate part of the service delivery
 1563 system for the special needs citizens. However, the Agency for
 1564 Health Care Administration is not a service provider and does
 1565 not develop or direct programs for the special needs citizens.
 1566 Therefore, it is the intent of the Legislature that the Agency

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1567 for Health Care Administration work closely with the Department
 1568 of Children and Families, the Agency for Persons with
 1569 Disabilities, the Department of Health, and the Department of
 1570 Elderly Affairs in developing plans for assuring access to all
 1571 Floridians in order to assure that the needs of special needs
 1572 citizens are met.

1573 Reviser's note.—Amended to insert the word “needs” to conform to
 1574 context and facilitate correct interpretation.

1575 Section 52. Subsection (2) of section 409.978, Florida
 1576 Statutes, is amended to read:

1577 409.978 Long-term care managed care program.—

1578 (2) The agency shall make payments for long-term care,
 1579 including home and community-based services, using a managed
 1580 care model. Unless otherwise specified, ss. 409.961-409.969
 1581 ~~409.961-409.97~~ apply to the long-term care managed care program.

1582 Reviser's note.—Amended to conform to the repeal of s. 409.97 by
 1583 s. 11, ch. 2015-225, Laws of Florida.

1584 Section 53. Section 415.113, Florida Statutes, is amended
 1585 to read:

1586 415.113 Statutory construction; treatment by spiritual
 1587 means.—Nothing in ss. 415.101-415.1115 ~~415.101-415.112~~ shall be
 1588 construed to mean a person is abused, neglected, or in need of
 1589 emergency or protective services for the sole reason that the
 1590 person relies upon and is, therefore, being furnished treatment
 1591 by spiritual means through prayer alone in accordance with the
 1592 tenets and practices of a well-recognized church or religious
 1593 denomination or organization; nor shall anything in such
 1594 sections be construed to authorize, permit, or require any
 1595 medical care or treatment in contravention of the stated or

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1596 implied objection of such person. Such construction does not:

1597 (1) Eliminate the requirement that such a case be reported
 1598 to the department;

1599 (2) Prevent the department from investigating such a case;
 1600 or

1601 (3) Preclude a court from ordering, when the health of the
 1602 individual requires it, the provision of medical services by a
 1603 licensed physician or treatment by a duly accredited
 1604 practitioner who relies solely on spiritual means for healing in
 1605 accordance with the tenets and practices of a well-recognized
 1606 church or religious denomination or organization.

1607 Reviser's note.—Amended to conform to the repeal of s. 415.112
 1608 by s. 31, ch. 2015-4, Laws of Florida.

1609 Section 54. Paragraph (1) of subsection (5) of section
 1610 456.074, Florida Statutes, is amended to read:

1611 456.074 Certain health care practitioners; immediate
 1612 suspension of license.—

1613 (5) The department shall issue an emergency order
 1614 suspending the license of a massage therapist or establishment
 1615 as defined in chapter 480 upon receipt of information that the
 1616 massage therapist, a person with an ownership interest in the
 1617 establishment, or, for a corporation that has more than \$250,000
 1618 of business assets in this state, the owner, officer, or
 1619 individual directly involved in the management of the
 1620 establishment has been convicted or found guilty of, or has
 1621 entered a plea of guilty or nolo contendere to, regardless of
 1622 adjudication, a felony offense under any of the following
 1623 provisions of state law or a similar provision in another
 1624 jurisdiction:

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1625 (1) Section 796.07(4)(a)~~3.796.07(4)(e)~~, relating to a
 1626 felony of the third degree for a third or subsequent violation
 1627 of s. 796.07, relating to prohibiting prostitution and related
 1628 acts.
 1629 Reviser's note.—Amended to conform to the redesignation of s.
 1630 796.07(4)(c) as s. 796.07(4)(a)3. by s. 1, ch. 2015-145,
 1631 Laws of Florida.
 1632 Section 55. Paragraph (a) of subsection (1) of section
 1633 458.3265, Florida Statutes, is amended to read:
 1634 458.3265 Pain-management clinics.—
 1635 (1) REGISTRATION.—
 1636 (a)1. As used in this section, the term:
 1637 a. "Board eligible" means successful completion of an
 1638 anesthesia, physical medicine and rehabilitation, rheumatology,
 1639 or neurology residency program approved by the Accreditation
 1640 Council for Graduate Medical Education or the American
 1641 Osteopathic Association for a period of 6 years from successful
 1642 completion of such residency program.
 1643 b. "Chronic nonmalignant pain" means pain unrelated to
 1644 cancer which persists beyond the usual course of disease or the
 1645 injury that is the cause of the pain or more than 90 days after
 1646 surgery.
 1647 c. "Pain-management clinic" or "clinic" means any publicly
 1648 or privately owned facility:
 1649 (I) That advertises in any medium for any type of pain-
 1650 management services; or
 1651 (II) Where in any month a majority of patients are
 1652 prescribed opioids, benzodiazepines, barbiturates, or
 1653 carisoprodol for the treatment of chronic nonmalignant pain.

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1654 2. Each pain-management clinic must register with the
 1655 department unless:
 1656 a. That clinic is licensed as a facility pursuant to
 1657 chapter 395;
 1658 b. The majority of the physicians who provide services in
 1659 the clinic primarily provide surgical services;
 1660 c. The clinic is owned by a publicly held corporation whose
 1661 shares are traded on a national exchange or on the over-the-
 1662 counter market and whose total assets at the end of the
 1663 corporation's most recent fiscal quarter exceeded \$50 million;
 1664 d. The clinic is affiliated with an accredited medical
 1665 school at which training is provided for medical students,
 1666 residents, or fellows;
 1667 e. The clinic does not prescribe controlled substances for
 1668 the treatment of pain;
 1669 f. The clinic is owned by a corporate entity exempt from
 1670 federal taxation under 26 U.S.C. s. 501(c)(3);
 1671 g. The clinic is wholly owned and operated by one or more
 1672 board-eligible or board-certified anesthesiologists,
 1673 psychiatrists, rheumatologists, or neurologists; or
 1674 h. The clinic is wholly owned and operated by a physician
 1675 multispecialty practice where one or more board-eligible or
 1676 board-certified medical specialists, who have also completed
 1677 fellowships in pain medicine approved by the Accreditation
 1678 Council for Graduate Medical Education, or who are also board-
 1679 certified in pain medicine by the American Board of Pain
 1680 Medicine or a board approved by the American Board of Medical
 1681 Specialties, the American Association of Physician Specialists,
 1682 or the American Osteopathic Association, ~~and~~ perform

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1683 interventional pain procedures of the type routinely billed
 1684 using surgical codes.
 1685 Reviser's note.—Amended to facilitate correct interpretation and
 1686 improve clarity.
 1687 Section 56. Paragraph (a) of subsection (1) of section
 1688 459.0137, Florida Statutes, is amended to read:
 1689 459.0137 Pain-management clinics.—
 1690 (1) REGISTRATION.—
 1691 (a)1. As used in this section, the term:
 1692 a. "Board eligible" means successful completion of an
 1693 anesthesia, physical medicine and rehabilitation, rheumatology,
 1694 or neurology residency program approved by the Accreditation
 1695 Council for Graduate Medical Education or the American
 1696 Osteopathic Association for a period of 6 years from successful
 1697 completion of such residency program.
 1698 b. "Chronic nonmalignant pain" means pain unrelated to
 1699 cancer which persists beyond the usual course of disease or the
 1700 injury that is the cause of the pain or more than 90 days after
 1701 surgery.
 1702 c. "Pain-management clinic" or "clinic" means any publicly
 1703 or privately owned facility:
 1704 (I) That advertises in any medium for any type of pain-
 1705 management services; or
 1706 (II) Where in any month a majority of patients are
 1707 prescribed opioids, benzodiazepines, barbiturates, or
 1708 carisoprodol for the treatment of chronic nonmalignant pain.
 1709 2. Each pain-management clinic must register with the
 1710 department unless:
 1711 a. That clinic is licensed as a facility pursuant to

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1712 chapter 395;
 1713 b. The majority of the physicians who provide services in
 1714 the clinic primarily provide surgical services;
 1715 c. The clinic is owned by a publicly held corporation whose
 1716 shares are traded on a national exchange or on the over-the-
 1717 counter market and whose total assets at the end of the
 1718 corporation's most recent fiscal quarter exceeded \$50 million;
 1719 d. The clinic is affiliated with an accredited medical
 1720 school at which training is provided for medical students,
 1721 residents, or fellows;
 1722 e. The clinic does not prescribe controlled substances for
 1723 the treatment of pain;
 1724 f. The clinic is owned by a corporate entity exempt from
 1725 federal taxation under 26 U.S.C. s. 501(c)(3);
 1726 g. The clinic is wholly owned and operated by one or more
 1727 board-eligible or board-certified anesthesiologists,
 1728 physiatrists, rheumatologists, or neurologists; or
 1729 h. The clinic is wholly owned and operated by a physician
 1730 multispecialty practice where one or more board-eligible or
 1731 board-certified medical specialists, who have also completed
 1732 fellowships in pain medicine approved by the Accreditation
 1733 Council for Graduate Medical Education or the American
 1734 Osteopathic Association, or who are also board-certified in pain
 1735 medicine by the American Board of Pain Medicine or a board
 1736 approved by the American Board of Medical Specialties, the
 1737 American Association of Physician Specialists, or the American
 1738 Osteopathic Association, and perform interventional pain
 1739 procedures of the type routinely billed using surgical codes.
 1740 Reviser's note.—Amended to facilitate correct interpretation and

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1741 improve clarity.

1742 Section 57. Subsections (1), (2), and (3) of section

1743 468.503, Florida Statutes, are amended and reordered to read:

1744 468.503 Definitions.—As used in this part:

1745 (1)~~(2)~~ "Board" means the Board of Medicine.

1746 (2)~~(3)~~ "Commission" means the Commission on Dietetic

1747 Registration, the credentialing agency of the Academy of

1748 Nutrition and Dietetics.

1749 (3)~~(4)~~ "Department" means the Department of Health "Agency"

1750 ~~means the Agency for Health Care Administration.~~

1751 Reviser's note.—The definition of "department" as the

1752 "Department of Health" was substituted by the editors for a

1753 definition of "agency" as the "Agency for Health Care

1754 Administration" to conform to the fact that s.

1755 20.43(3)(g)17. provides that Dietetics and Nutrition

1756 Practice, as provided under part X of chapter 468, is under

1757 the Division of Medical Quality Assurance of the Department

1758 of Health. Section 8, ch. 96-403, Laws of Florida, enacted

1759 s. 20.43, and provided for department oversight of

1760 Dietetics and Nutrition Practice, effective July 1, 1997.

1761 Some references to the Agency for Health Care

1762 Administration were never conformed.

1763 Section 58. Subsections (1), (2), and (4) of section

1764 468.509, Florida Statutes, are amended to read:

1765 468.509 Dietitian/nutritionist; requirements for

1766 licensure.—

1767 (1) Any person desiring to be licensed as a

1768 dietitian/nutritionist shall apply to the department agency to

1769 take the licensure examination.

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1770 (2) The department ~~agency~~ shall examine any applicant who

1771 the board certifies has completed the application form and

1772 remitted the application and examination fees specified in s.

1773 468.508 and who:

1774 (a)1. Possesses a baccalaureate or postbaccalaureate degree

1775 with a major course of study in human nutrition, food and

1776 nutrition, dietetics, or food management, or an equivalent major

1777 course of study, from a school or program accredited, at the

1778 time of the applicant's graduation, by the appropriate

1779 accrediting agency recognized by the Commission on Recognition

1780 of Postsecondary Accreditation and the United States Department

1781 of Education; and

1782 2. Has completed a preprofessional experience component of

1783 not less than 900 hours or has education or experience

1784 determined to be equivalent by the board; or

1785 (b)1. Has an academic degree, from a foreign country, that

1786 has been validated by an accrediting agency approved by the

1787 United States Department of Education as equivalent to the

1788 baccalaureate or postbaccalaureate degree conferred by a

1789 regionally accredited college or university in the United

1790 States;

1791 2. Has completed a major course of study in human

1792 nutrition, food and nutrition, dietetics, or food management;

1793 and

1794 3. Has completed a preprofessional experience component of

1795 not less than 900 hours or has education or experience

1796 determined to be equivalent by the board.

1797 (4) The department ~~agency~~ shall license as a

1798 dietitian/nutritionist any applicant who has remitted the

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1799 initial licensure fee and has passed the examination in
1800 accordance with this section.

1801 Reviser's note.—The word "department" was substituted for the
1802 word "agency" by the editors to conform to the fact that s.
1803 20.43(3)(g)17. provides that Dietetics and Nutrition
1804 Practice, as provided under part X of chapter 468, is under
1805 the Division of Medical Quality Assurance of the Department
1806 of Health. Section 8, ch. 96-403, Laws of Florida, enacted
1807 s. 20.43, and provided for department oversight of
1808 Dietetics and Nutrition Practice, effective July 1, 1997.
1809 Some references to the Agency for Health Care
1810 Administration were never conformed.

1811 Section 59. Subsections (1) and (3) of section 468.513,
1812 Florida Statutes, are amended to read:

1813 468.513 Dietitian/nutritionist; licensure by endorsement.—

1814 (1) The department ~~agency~~ shall issue a license to practice
1815 dietetics and nutrition by endorsement to any applicant who the
1816 board certifies as qualified, upon receipt of a completed
1817 application and the fee specified in s. 468.508.

1818 (3) The department ~~agency~~ shall not issue a license by
1819 endorsement under this section to any applicant who is under
1820 investigation in any jurisdiction for any act which would
1821 constitute a violation of this part or chapter 456 until such
1822 time as the investigation is complete and disciplinary
1823 proceedings have been terminated.

1824 Reviser's note.—The word "department" was substituted for the
1825 word "agency" by the editors to conform to the fact that s.
1826 20.43(3)(g)17. provides that Dietetics and Nutrition
1827 Practice, as provided under part X of chapter 468, is under

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1828 the Division of Medical Quality Assurance of the Department
1829 of Health. Section 8, ch. 96-403, Laws of Florida, enacted
1830 s. 20.43, and provided for department oversight of
1831 Dietetics and Nutrition Practice, effective July 1, 1997.
1832 Some references to the Agency for Health Care
1833 Administration were never conformed.

1834 Section 60. Section 468.514, Florida Statutes, is amended
1835 to read:

1836 468.514 Renewal of license.—

1837 (1) The department ~~agency~~ shall renew a license under this
1838 part upon receipt of the renewal application, fee, and proof of
1839 the successful completion of continuing education requirements
1840 as determined by the board.

1841 (2) The department ~~agency~~ shall adopt rules establishing a
1842 procedure for the biennial renewal of licenses under this part.

1843 Reviser's note.—The word "department" was substituted for the
1844 word "agency" by the editors to conform to the fact that s.
1845 20.43(3)(g)17. provides that Dietetics and Nutrition
1846 Practice, as provided under part X of chapter 468, is under
1847 the Division of Medical Quality Assurance of the Department
1848 of Health. Section 8, ch. 96-403, Laws of Florida, enacted
1849 s. 20.43, and provided for department oversight of
1850 Dietetics and Nutrition Practice, effective July 1, 1997.
1851 Some references to the Agency for Health Care
1852 Administration were never conformed.

1853 Section 61. Subsection (2) of section 468.515, Florida
1854 Statutes, is amended to read:

1855 468.515 Inactive status.—

1856 (2) The department ~~agency~~ shall reactivate a license under

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1857 this part upon receipt of the reactivation application, fee, and
 1858 proof of the successful completion of continuing education
 1859 prescribed by the board.

1860 Reviser's note.—The word "department" was substituted for the
 1861 word "agency" by the editors to conform to the fact that s.
 1862 20.43(3)(g)17. provides that Dietetics and Nutrition
 1863 Practice, as provided under part X of chapter 468, is under
 1864 the Division of Medical Quality Assurance of the Department
 1865 of Health. Section 8, ch. 96-403, Laws of Florida, enacted
 1866 s. 20.43, and provided for department oversight of
 1867 Dietetics and Nutrition Practice, effective July 1, 1997.
 1868 Some references to the Agency for Health Care
 1869 Administration were never conformed.

1870 Section 62. Paragraph (a) of subsection (1) and subsection
 1871 (3) of section 468.518, Florida Statutes, are amended to read:
 1872 468.518 Grounds for disciplinary action.—
 1873 (1) The following acts constitute grounds for denial of a
 1874 license or disciplinary action, as specified in s. 456.072(2):
 1875 (a) Violating any provision of this part, any board or
 1876 department ~~agency~~ rule adopted pursuant thereto, or any lawful
 1877 order of the board or department ~~agency~~ previously entered in a
 1878 disciplinary hearing held pursuant to this part, or failing to
 1879 comply with a lawfully issued subpoena of the department ~~agency~~.
 1880 The provisions of this paragraph also apply to any order or
 1881 subpoena previously issued by the Department of Health during
 1882 its period of regulatory control over this part.

1883 (3) The department ~~agency~~ shall reissue the license of a
 1884 disciplined dietitian/nutritionist or nutrition counselor upon
 1885 certification by the board that the disciplined

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1886 dietitian/nutritionist or nutrition counselor has complied with
 1887 all of the terms and conditions set forth in the final order.

1888 Reviser's note.—The word "department" was substituted for the
 1889 word "agency" by the editors to conform to the fact that s.
 1890 20.43(3)(g)17. provides that Dietetics and Nutrition
 1891 Practice, as provided under part X of chapter 468, is under
 1892 the Division of Medical Quality Assurance of the Department
 1893 of Health. Section 8, ch. 96-403, Laws of Florida, enacted
 1894 s. 20.43, and provided for department oversight of
 1895 Dietetics and Nutrition Practice, effective July 1, 1997.
 1896 Some references to the Agency for Health Care
 1897 Administration were never conformed.

1898 Section 63. Paragraph (1) of subsection (7) of section
 1899 480.041, Florida Statutes, is amended to read:
 1900 480.041 Massage therapists; qualifications; licensure;
 1901 endorsement.—
 1902 (7) The board shall deny an application for a new or
 1903 renewal license if an applicant has been convicted or found
 1904 guilty of, or enters a plea of guilty or nolo contendere to,
 1905 regardless of adjudication, a felony offense under any of the
 1906 following provisions of state law or a similar provision in
 1907 another jurisdiction:

1908 (1) Section 796.07(4)(a)3. ~~796.07(4)(c).~~, relating to a
 1909 felony of the third degree for a third or subsequent violation
 1910 of s. 796.07, relating to prohibiting prostitution and related
 1911 acts.

1912 Reviser's note.—Amended to conform to the redesignation of s.
 1913 796.07(4)(c) as s. 796.07(4)(a)3. by s. 1, ch. 2015-145,
 1914 Laws of Florida.

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1915 Section 64. Paragraph (1) of subsection (8) of section
 1916 480.043, Florida Statutes, is amended to read:
 1917 480.043 Massage establishments; requisites; licensure;
 1918 inspection.—
 1919 (8) The department shall deny an application for a new or
 1920 renewal license if a person with an ownership interest in the
 1921 establishment or, for a corporation that has more than \$250,000
 1922 of business assets in this state, the owner, officer, or
 1923 individual directly involved in the management of the
 1924 establishment has been convicted or found guilty of, or entered
 1925 a plea of guilty or nolo contendere to, regardless of
 1926 adjudication, a felony offense under any of the following
 1927 provisions of state law or a similar provision in another
 1928 jurisdiction:
 1929 (1) Section 796.07(4)(a)3. ~~796.07(4)(e)~~, relating to a
 1930 felony of the third degree for a third or subsequent violation
 1931 of s. 796.07, relating to prohibiting prostitution and related
 1932 acts.
 1933 Reviser's note.—Amended to conform to the redesignation of s.
 1934 796.07(4)(c) as s. 796.07(4)(a)3. by s. 1, ch. 2015-145,
 1935 Laws of Florida.
 1936 Section 65. Subsection (3) of section 497.159, Florida
 1937 Statutes, is amended to read:
 1938 497.159 Crimes.—
 1939 (3) Any person who willfully obstructs the department or
 1940 its examiner in any examination or investigation authorized by
 1941 this chapter commits a misdemeanor of the second degree ~~and is,~~
 1942 ~~in addition to any disciplinary action under this chapter,~~
 1943 punishable as provided in s. 775.082 or s. 775.083, in addition

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1944 ~~to any disciplinary action under this chapter.~~ The initiation of
 1945 action in any court by or on behalf of any licensee to terminate
 1946 or limit any examination or investigation under this chapter
 1947 shall not constitute a violation under this subsection.
 1948 Reviser's note.—Amended to facilitate correct interpretation and
 1949 improve clarity.
 1950 Section 66. Paragraph (a) of subsection (6) of section
 1951 546.10, Florida Statutes, is amended to read:
 1952 546.10 Amusement games or machines.—
 1953 (6) (a) A Type B amusement game or machine may only be
 1954 operated at:
 1955 1. A facility as defined in s. 721.05(17) that is under the
 1956 control of a timeshare plan.~~+~~
 1957 2. A public lodging establishment or public food service
 1958 establishment licensed pursuant to chapter 509.~~+~~
 1959 3. The following premises, if the owner or operator of the
 1960 premises has a current license issued by the Department of
 1961 Business and Professional Regulation pursuant to chapter 509,
 1962 chapter 561, chapter 562, chapter 563, chapter 564, chapter 565,
 1963 chapter 567, or chapter 568:
 1964 a. An arcade amusement center;
 1965 b. A bowling center, as defined in s. 849.141; or
 1966 c. A truck stop.
 1967 Reviser's note.—Amended to improve punctuation.
 1968 Section 67. Paragraph (q) of subsection (1) of section
 1969 553.74, Florida Statutes, is amended to read:
 1970 553.74 Florida Building Commission.—
 1971 (1) The Florida Building Commission is created and located
 1972 within the Department of Business and Professional Regulation

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1973 for administrative purposes. Members are appointed by the
 1974 Governor subject to confirmation by the Senate. The commission
 1975 is composed of 27 members, consisting of the following:

1976 (q) One member of the building products manufacturing
 1977 industry who is authorized to do business in this state and is
 1978 actively engaged in the industry. The Florida Building Material
 1979 Association, the Florida Concrete and Products ~~Product~~
 1980 Association, and the Fenestration Manufacturers Association are
 1981 encouraged to recommend a list of candidates for consideration.
 1982 Reviser's note.—Amended to conform to the correct name of the
 1983 Florida Concrete and Products Association.

1984 Section 68. Paragraph (b) of subsection (7) of section
 1985 559.55, Florida Statutes, is amended to read:

1986 559.55 Definitions.—The following terms shall, unless the
 1987 context otherwise indicates, have the following meanings for the
 1988 purpose of this part:

1989 (7) "Debt collector" means any person who uses any
 1990 instrumentality of commerce within this state, whether initiated
 1991 from within or outside this state, in any business the principal
 1992 purpose of which is the collection of debts, or who regularly
 1993 collects or attempts to collect, directly or indirectly, debts
 1994 owed or due or asserted to be owed or due another. The term
 1995 "debt collector" includes any creditor who, in the process of
 1996 collecting her or his own debts, uses any name other than her or
 1997 his own which would indicate that a third person is collecting
 1998 or attempting to collect such debts. The term does not include:

1999 (b) Any person while acting as a debt collector for another
 2000 person, both of whom are related by common ownership or
 2001 affiliated by corporate control, if the person is acting as a

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2002 debt collector for persons to whom it is so related or
 2003 affiliated and if the principal business of such persons is not
 2004 the collection of debts;

2005 Reviser's note.—Amended to confirm the editorial insertion of
 2006 the word "is."

2007 Section 69. Subsection (7) of section 559.555, Florida
 2008 Statutes, is amended to read:

2009 559.555 Registration of consumer collection agencies;
 2010 procedure.—

2011 ~~(7) A consumer collection agency registrant whose initial~~
 2012 ~~registration was approved and issued by the office pursuant to~~
 2013 ~~this section before October 1, 2014, and who seeks renewal of~~
 2014 ~~the registration must submit fingerprints for each control~~
 2015 ~~person for live-scan processing as described in paragraph~~
 2016 ~~(2)(c). The fingerprints must be submitted before renewing a~~
 2017 ~~registration that is scheduled to expire on December 31, 2014.~~

2018 Reviser's note.—Amended to delete an obsolete provision.

2019 Section 70. Paragraph (c) of subsection (1) of section
 2020 560.141, Florida Statutes, is amended to read:

2021 560.141 License application.—

2022 (1) To apply for a license as a money services business
 2023 under this chapter, the applicant must submit:

2024 (c) Fingerprints for each person listed in subparagraph
 2025 (a)3. for live-scan processing in accordance with rules adopted
 2026 by the commission.

2027 1. The fingerprints may be submitted through a third-party
 2028 vendor authorized by the Department of Law Enforcement to
 2029 provide live-scan fingerprinting.

2030 2. The Department of Law Enforcement must conduct the state

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2031 criminal history background check, and a federal criminal
2032 history background check must be conducted through the Federal
2033 Bureau of Investigation.

2034 3. All fingerprints submitted to the Department of Law
2035 Enforcement must be submitted electronically and entered into
2036 the statewide automated fingerprint identification system
2037 established in s. 943.05(2)(b) and available for use in
2038 accordance with s. 943.05(2)(g) and (h). The office shall pay an
2039 annual fee to the Department of Law Enforcement to participate
2040 in the system and shall inform the Department of Law Enforcement
2041 of any person whose fingerprints no longer must be retained.

2042 4. The costs of fingerprint processing, including the cost
2043 of retaining the fingerprints, shall be borne by the person
2044 subject to the background check.

2045 5. The office shall review the results of the state and
2046 federal criminal history background checks and determine whether
2047 the applicant meets licensure requirements.

2048 6. For purposes of this paragraph, fingerprints are not
2049 required to be submitted if the applicant is a publicly traded
2050 corporation or is exempted from this chapter under s.
2051 560.104(1). The term "publicly traded" means a stock is
2052 currently traded on a national securities exchange registered
2053 with the federal Securities and Exchange Commission or traded on
2054 an exchange in a country other than the United States regulated
2055 by a regulator equivalent to the Securities and Exchange
2056 Commission and the disclosure and reporting requirements of such
2057 regulator are substantially similar to those of the commission.

2058 ~~7. Licensees initially approved before October 1, 2013, who~~
2059 ~~are seeking renewal must submit fingerprints for each person~~

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2060 ~~listed in subparagraph (a)3. for live scan processing pursuant~~
2061 ~~to this paragraph. Such fingerprints must be submitted before~~
2062 ~~renewing a license that is scheduled to expire between April 30,~~
2063 ~~2014, and December 31, 2015.~~

2064 Reviser's note.—Amended to delete an obsolete provision.

2065 Section 71. Paragraph (a) of subsection (13) of section
2066 561.42, Florida Statutes, is amended to read:

2067 561.42 Tied house evil; financial aid and assistance to
2068 vendor by manufacturer, distributor, importer, primary American
2069 source of supply, brand owner or registrant, or any broker,
2070 sales agent, or sales person thereof, prohibited; procedure for
2071 enforcement; exception.—

2072 (13) A licensee under the Beverage Law may not possess or
2073 use, in physical or electronic format, any type of malt beverage
2074 coupon or malt beverage cross-merchandising coupon in this
2075 state, where:

2076 (a) The coupon is produced, sponsored, or furnished,
2077 whether directly or indirectly, by an alcoholic ~~alcohol~~ beverage
2078 manufacturer, distributor, importer, brand owner, or brand
2079 registrant or any broker, sales agent, or sales person thereof;
2080 and

2081 Reviser's note.—Amended to conform to context and facilitate
2082 correct interpretation.

2083 Section 72. Subsection (4) of section 561.57, Florida
2084 Statutes, is amended to read:

2085 561.57 Deliveries by licensees.—

2086 (4) Nothing contained in this section shall prohibit
2087 deliveries by the licensee from his or her permitted storage
2088 area or deliveries by a distributor from the manufacturer to his

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2089 or her licensed premises; nor shall a pool buying agent be
 2090 prohibited from transporting pool purchases to the licensed
 2091 premises of his or her members with the licensee's owned or
 2092 leased vehicles, ~~and in such cases~~. In addition, a licensed
 2093 salesperson of wine and spirits is authorized to deliver
 2094 alcoholic beverages in his or her vehicle on behalf of the
 2095 distributor.

2096 Reviser's note.—Amended to confirm the editorial deletion of the
 2097 phrase “, and in such cases,” to conform to the striking of
 2098 the remaining words of the sentence by s. 5, ch. 2015-12,
 2099 Laws of Florida.

2100 Section 73. Paragraph (b) of subsection (2) of section
 2101 605.0410, Florida Statutes, is amended to read:

2102 605.0410 Records to be kept; rights of member, manager, and
 2103 person dissociated to information.—

2104 (2) In a member-managed limited liability company, the
 2105 following rules apply:

2106 (b) The company shall furnish to each member:

2107 1. Without demand, any information concerning the company's
 2108 activities, affairs, financial condition, and other
 2109 circumstances that is known to ~~that~~ the company ~~knows~~ and is
 2110 material to the proper exercise of the member's rights and
 2111 duties under the operating agreement or this chapter, except to
 2112 the extent the company can establish that it reasonably believes
 2113 the member already knows the information; and

2114 2. On demand, other information concerning the company's
 2115 activities, affairs, financial condition, and other
 2116 circumstances, except to the extent the demand or information
 2117 demanded is unreasonable or otherwise improper under the

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2118 circumstances.

2119 Reviser's note.—Amended to improve clarity and to facilitate
 2120 correct interpretation.

2121 Section 74. Section 610.1201, Florida Statutes, is amended
 2122 to read:

2123 610.1201 Severability.—If any provision of ss. 610.102-
 2124 610.118 ~~610.102-610.119~~ or the application thereof to any person
 2125 or circumstance is held invalid, such invalidity shall not
 2126 affect other provisions or application of ss. 610.102-610.118
 2127 ~~610.102-610.119~~ which can be given effect without the invalid
 2128 provision or application, and to this end the provisions of ss.
 2129 610.102-610.118 ~~610.102-610.119~~ are severable.

2130 Reviser's note.—Amended to conform to the repeal of s. 610.119
 2131 by s. 1, ch. 2014-90, Laws of Florida.

2132 Section 75. Subsection (3) of section 617.01301, Florida
 2133 Statutes, is amended to read:

2134 617.01301 Powers of Department of State.—

2135 (3) The Department of State may, based upon its findings
 2136 hereunder or as provided in s. 213.053(15) ~~213.053(13)~~, bring an
 2137 action in circuit court to collect any penalties, fees, or taxes
 2138 determined to be due and owing the state and to compel any
 2139 filing, qualification, or registration required by law. In
 2140 connection with such proceeding the department may, without
 2141 prior approval by the court, file a lis pendens against any
 2142 property owned by the corporation and may further certify any
 2143 findings to the Department of Legal Affairs for the initiation
 2144 of any action permitted pursuant to s. 617.0503 which the
 2145 Department of Legal Affairs may deem appropriate.

2146 Reviser's note.—Amended to conform to the fact that s.

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2147 213.053(15), not s. 2130.053(13), references the Department
2148 of State and to conform to similar provisions in ss.
2149 605.1104 and 607.0130.

2150 Section 76. Section 618.221, Florida Statutes, is amended
2151 to read:

2152 618.221 Conversion into a corporation for profit.—Any
2153 association incorporated under or that has adopted the
2154 provisions of this chapter, may, by a majority vote of its
2155 stockholders or members be brought under part I of chapter 607,
2156 as a corporation for profit by surrendering all right to carry
2157 on its business under this chapter, and the privileges and
2158 immunities incident thereto. It shall make out in duplicate a
2159 statement signed and sworn to by its directors to the effect
2160 that the association has, by a majority vote of its stockholders
2161 or members, decided to surrender all rights, powers, and
2162 privileges as a nonprofit cooperative marketing association
2163 under this chapter and to do business under and be bound by part
2164 I of chapter 607, as a corporation for profit and has authorized
2165 all changes accordingly. Articles of incorporation shall be
2166 delivered to the Department of State for filing as required
2167 under part I of chapter 607, except that they shall be signed by
2168 the members of the then board of directors. The filing fees and
2169 taxes shall be as provided under part I of chapter 607. Such
2170 articles of incorporation shall adequately protect and preserve
2171 the relative rights of the stockholders or members of the
2172 association so converting into a corporation for profit;
2173 provided that no rights or obligations due any stockholder or
2174 member of such association or any other person, firm, or
2175 corporation which have ~~has~~ not been waived or satisfied shall be

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2176 impaired by such conversion into a corporation for profit as
2177 herein authorized.

2178 Reviser's note.—Amended to improve clarity and facilitate
2179 correct interpretation.

2180 Section 77. Section 624.35, Florida Statutes, is repealed.

2181 Reviser's note.—Repealed to delete a provision that has served
2182 its purpose. Section 624.35 is the short title for the
2183 "Medicaid and Public Assistance Fraud Strike Force,"
2184 consisting of ss. 624.35, 624.351, and 624.352. Sections
2185 624.351 and 624.352 were repealed by ss. 21, 22, ch. 2015-
2186 3, Laws of Florida.

2187 Section 78. Paragraph (d) of subsection (2) of section
2188 624.5105, Florida Statutes, is amended to read:

2189 624.5105 Community contribution tax credit; authorization;
2190 limitations; eligibility and application requirements;
2191 administration; definitions; expiration.—

2192 (2) ELIGIBILITY REQUIREMENTS.—

2193 (d) The project shall be located in an area that was
2194 designated as an enterprise zone pursuant to chapter 290 as of
2195 May 1, 2015, or a Front Porch Florida Community. Any project
2196 designed to provide housing opportunities for persons with
2197 special needs as defined in s. 420.0004 or to construct or
2198 rehabilitate housing for low-income or very-low-income
2199 households as defined in s. 420.9071(19) and (28) is exempt from
2200 the area requirement of this paragraph.

2201 Reviser's note.—Amended to conform the editorial insertion of
2202 the word "Florida" to conform to the full title of
2203 communities receiving grants through the Front Porch
2204 Florida Initiative.

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2205 Section 79. Paragraph (b) of subsection (15) of section
 2206 625.012, Florida Statutes, is amended to read:
 2207 625.012 "Assets" defined.—In any determination of the
 2208 financial condition of an insurer, there shall be allowed as
 2209 "assets" only such assets as are owned by the insurer and which
 2210 consist of:
 2211 (15)
 2212 (b) Assessments levied as monthly installments pursuant to
 2213 s. ~~631.57(3)(e)3.~~ 631.57(3)(e)1.e. that are paid after policy
 2214 surcharges are collected so that the recognition of assets is
 2215 based on actual premium written offset by the obligation to the
 2216 Florida Insurance Guaranty Association.
 2217 Reviser's note.—Amended to conform to the redesignation of s.
 2218 631.57(3)(e)1.c. as s. 631.57(3)(e)3. by s. 2, ch. 2015-65,
 2219 Laws of Florida.
 2220 Section 80. Subsection (2) of section 631.152, Florida
 2221 Statutes, is amended to read:
 2222 631.152 Conduct of delinquency proceeding; foreign
 2223 insurers.—
 2224 (2) The domiciliary receiver for the purpose of liquidating
 2225 an insurer domiciled in a reciprocal state shall be vested by
 2226 operation of law with the title to all of the property (except
 2227 statutory deposits, special statutory deposits, and property
 2228 located in this state subject to a security interest),
 2229 contracts, and rights of action, and all of the books and
 2230 records of the insurer located in this state, and it shall have
 2231 the immediate right to recover balances due from local agents
 2232 and to obtain possession of any books and records of the insurer
 2233 found in this state. It shall also be entitled to recover the

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2234 property subject to a security interest, statutory deposits, and
 2235 special statutory deposits of the insurer located in this state,
 2236 except that upon the appointment of an ancillary receiver in
 2237 this state, the ancillary receiver shall during the ancillary
 2238 receivership proceeding have the sole right to recover such
 2239 other assets. The ancillary receiver shall, as soon as
 2240 practicable, liquidate from their respective securities those
 2241 special deposit claims and secured claims which are proved and
 2242 allowed in the ancillary proceeding in this state, and shall pay
 2243 the necessary expenses of the proceeding. ~~All remaining assets~~
 2244 It shall promptly transfer all remaining assets to the
 2245 domiciliary receiver. Subject to the foregoing provisions, the
 2246 ancillary receiver and its agents shall have the same powers and
 2247 be subject to the same duties with respect to the administration
 2248 of such assets as a receiver of an insurer domiciled in this
 2249 state.
 2250 Reviser's note.—Amended to improve clarity and facilitate
 2251 correct interpretation.
 2252 Section 81. Section 631.737, Florida Statutes, is amended
 2253 to read:
 2254 631.737 Rescission and review generally.—The association
 2255 shall review claims and matters regarding covered policies based
 2256 upon the record available to it on and after the date of
 2257 liquidation. Notwithstanding any other provision of this part,
 2258 in order to allow for orderly claims administration by the
 2259 association, entry of a liquidation order by a court of
 2260 competent jurisdiction tolls for 1 year any rescission or
 2261 noncontestable period allowed by the contract, by the policy, or
 2262 by law. The association's obligation is to pay any valid

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2263 insurance policy or contract claims, if warranted, after its
 2264 independent de novo review of the policies, contracts, and
 2265 claims presented to it, whether domestic or foreign, following a
 2266 rehabilitation or a liquidation.

2267 Reviser's note.—Amended to improve clarity and facilitate
 2268 correct interpretation.

2269 Section 82. Subsection (2) of section 641.225, Florida
 2270 Statutes, is amended to read:

2271 641.225 Surplus requirements.—

2272 (2) The office shall not issue a certificate of authority,
 2273 ~~except as provided in subsection (3),~~ unless the health
 2274 maintenance organization has a minimum surplus in an amount
 2275 which is the greater of:

2276 (a) Ten percent of their total liabilities based on their
 2277 startup projection as set forth in this part;

2278 (b) Two percent of their total projected premiums based on
 2279 their startup projection as set forth in this part; or

2280 (c) \$1,500,000, plus all startup losses, excluding profits,
 2281 projected to be incurred on their startup projection until the
 2282 projection reflects statutory net profits for 12 consecutive
 2283 months.

2284 Reviser's note.—Amended to conform to the repeal of s.
 2285 641.225(3) by s. 31, ch. 2015-3, Laws of Florida.

2286 Section 83. Subsection (3) of section 719.108, Florida
 2287 Statutes, is amended to read:

2288 719.108 Rents and assessments; liability; lien and
 2289 priority; interest; collection; cooperative ownership.—

2290 (3) Rents and assessments, and installments on them, not
 2291 paid when due bear interest at the rate provided in the

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2292 cooperative documents from the date due until paid. This rate
 2293 may not exceed the rate allowed by law and, if a rate is not
 2294 provided in the cooperative documents, accrues at 18 percent per
 2295 annum. If the cooperative documents or bylaws so provide, the
 2296 association may charge an administrative late fee in addition to
 2297 such interest, not to exceed the greater of \$25 or 5 percent of
 2298 each installment of the assessment for each delinquent
 2299 installment that the payment is late. Any payment received by an
 2300 association must be applied first to any interest accrued by the
 2301 association, then to any administrative late fee, then to any
 2302 costs and reasonable attorney fees incurred in collection, and
 2303 then to the delinquent assessment. The foregoing applies
 2304 notwithstanding s. 673.3111, any purported accord and
 2305 satisfaction, or any restrictive endorsement, designation, or
 2306 instruction placed on or accompanying a payment. The preceding
 2307 sentence ~~of~~ is intended to clarify existing law. A late fee is
 2308 not subject to chapter 687 or s. 719.303(4).

2309 Reviser's note.—Amended to confirm the editorial deletion of the
 2310 word "of."

2311 Section 84. Section 742.14, Florida Statutes, is amended to
 2312 read:

2313 742.14 Donation of eggs, sperm, or preembryos.—The donor of
 2314 any egg, sperm, or preembryo, other than the commissioning
 2315 couple or a father who has executed a preplanned adoption
 2316 agreement under s. 63.213 ~~63-212~~, shall relinquish all maternal
 2317 or paternal rights and obligations with respect to the donation
 2318 or the resulting children. Only reasonable compensation directly
 2319 related to the donation of eggs, sperm, and preembryos shall be
 2320 permitted.

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2321 Reviser's note.—Amended to conform to the deletion of material
 2322 relating to entry into a preplanned adoption arrangement
 2323 from s. 63.212 by s. 35, ch. 2003-58, Laws of Florida, and
 2324 creation of s. 63.213 relating to preplanned adoption
 2325 agreements by s. 36 of that act.
 2326 Section 85. Subsection (3) of section 752.001, Florida
 2327 Statutes, is amended to read:
 2328 752.001 Definitions.—As used in this chapter, the term:
 2329 (3) "Persistent vegetative state" has the same meaning as
 2330 provided in s. 765.101(15) ~~765.101(12)~~.
 2331 Reviser's note.—Amended to conform to the redesignation of s.
 2332 765.101(12) as s. 765.101(15) by s. 2, ch. 2015-153, Laws
 2333 of Florida.
 2334 Section 86. Subsection (2) of section 765.105, Florida
 2335 Statutes, is amended to read:
 2336 765.105 Review of surrogate or proxy's decision.—
 2337 (2) This section does not apply to a patient who is not
 2338 incapacitated and who has designated a surrogate who has
 2339 immediate authority to make health care decisions or ~~and~~ receive
 2340 health information, or both, on behalf of the patient.
 2341 Reviser's note.—Amended to confirm the editorial substitution of
 2342 the word "or" for the word "and" to conform to context and
 2343 facilitate correct interpretation.
 2344 Section 87. Section 765.2038, Florida Statutes, is amended
 2345 to read:
 2346 765.2038 Designation of health care surrogate for a minor;
 2347 suggested form.—A written designation of a health care surrogate
 2348 for a minor executed pursuant to this chapter may, but need not,
 2349 ~~be~~ in the following form:

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2350
 2351 DESIGNATION OF HEALTH CARE SURROGATE
 2352 FOR MINOR
 2353
 2354 I/We, ...(name/names)..., the [...] natural guardian(s) as
 2355 defined in s. 744.301(1), Florida Statutes; [...] legal
 2356 custodian(s); [...] legal guardian(s) [check one] of the
 2357 following minor(s):
 2358
 2359;
 2360;
 2361;
 2362
 2363 pursuant to s. 765.2035, Florida Statutes, designate the
 2364 following person to act as my/our surrogate for health care
 2365 decisions for such minor(s) in the event that I/we am/are not
 2366 able or reasonably available to provide consent for medical
 2367 treatment and surgical and diagnostic procedures:
 2368
 2369 Name: ...(name)...
 2370 Address: ...(address)...
 2371 Zip Code: ...(zip code)...
 2372 Phone: ...(telephone)...
 2373
 2374 If my/our designated health care surrogate for a minor is
 2375 not willing, able, or reasonably available to perform his or her
 2376 duties, I/we designate the following person as my/our alternate
 2377 health care surrogate for a minor:
 2378

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2379 Name: ...(name)...
 2380 Address: ...(address)...
 2381 Zip Code: ...(zip code)...
 2382 Phone: ...(telephone)...

2383
 2384 I/We authorize and request all physicians, hospitals, or
 2385 other providers of medical services to follow the instructions
 2386 of my/our surrogate or alternate surrogate, as the case may be,
 2387 at any time and under any circumstances whatsoever, with regard
 2388 to medical treatment and surgical and diagnostic procedures for
 2389 a minor, provided the medical care and treatment of any minor is
 2390 on the advice of a licensed physician.

2391
 2392 I/We fully understand that this designation will permit
 2393 my/our designee to make health care decisions for a minor and to
 2394 provide, withhold, or withdraw consent on my/our behalf, to
 2395 apply for public benefits to defray the cost of health care, and
 2396 to authorize the admission or transfer of a minor to or from a
 2397 health care facility.

2398
 2399 I/We will notify and send a copy of this document to the
 2400 following person(s) other than my/our surrogate, so that they
 2401 may know the identity of my/our surrogate:

2402
 2403 Name: ...(name)...
 2404 Name: ...(name)...
 2405
 2406 Signed: ...(signature)...
 2407 Date: ...(date)...

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2408
 2409 WITNESSES:
 2410 1. ...(witness)...
 2411 2. ...(witness)...
 2412 Reviser's note.—Amended to confirm the editorial substitution of
 2413 the word "not" for the word "to" to conform to context and
 2414 facilitate correct interpretation.
 2415 Section 88. Paragraph (b) of subsection (3) of section
 2416 787.29, Florida Statutes, is amended to read:
 2417 787.29 Human trafficking public awareness signs.—
 2418 (3) The employer at each of the following establishments
 2419 shall display a public awareness sign developed under subsection
 2420 (4) in a conspicuous location that is clearly visible to the
 2421 public and employees of the establishment:
 2422 (b) A business or establishment that offers massage or
 2423 bodywork services for compensation that is not owned by a health
 2424 care practitioner ~~profession~~ regulated pursuant to chapter 456
 2425 and defined in s. 456.001.
 2426 Reviser's note.—Amended to improve clarity and facilitate
 2427 correct interpretation.
 2428 Section 89. Paragraph (c) of subsection (3) of section
 2429 893.138, Florida Statutes, is amended to read:
 2430 893.138 Local administrative action to abate drug-related,
 2431 prostitution-related, or stolen-property-related public
 2432 nuisances and criminal gang activity.—
 2433 (3) Any pain-management clinic, as described in s. 458.3265
 2434 or s. 459.0137, which has been used on more than two occasions
 2435 within a 6-month period as the site of a violation of:
 2436 (c) Section 812.014, relating to ~~dealing in~~ theft;

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2437
 2438 may be declared to be a public nuisance, and such nuisance may
 2439 be abated pursuant to the procedures provided in this section.
 2440 Reviser's note.—Amended to conform to context.
 2441 Section 90. Paragraph (b) of subsection (2) of section
 2442 944.4731, Florida Statutes, is amended to read:
 2443 944.4731 Addiction-Recovery Supervision Program.—
 2444 (2)
 2445 (b) An offender released under addiction-recovery
 2446 supervision shall be subject to specified terms and conditions,
 2447 including payment of the costs of supervision under s. 948.09
 2448 and any other court-ordered payments, such as child support and
 2449 restitution. If an offender has received a term of probation or
 2450 community control to be served after release from incarceration,
 2451 the period of probation or community control may not be
 2452 substituted for addiction-recovery supervision and shall follow
 2453 the term of addiction-recovery supervision. A panel of not fewer
 2454 than two ~~parole~~ commissioners shall establish the terms and
 2455 conditions of supervision, and the terms and conditions must be
 2456 included in the supervision order. In setting the terms and
 2457 conditions of supervision, the commission shall weigh heavily
 2458 the program requirements, including, but not limited to, work at
 2459 paid employment while participating in treatment and traveling
 2460 restrictions. The commission shall also determine whether an
 2461 offender violates the terms and conditions of supervision and
 2462 whether a violation warrants revocation of addiction-recovery
 2463 supervision pursuant to s. 947.141. The commission shall review
 2464 the offender's record for the purpose of establishing the terms
 2465 and conditions of supervision. The commission may impose any

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2466 special conditions it considers warranted from its review of the
 2467 record. The length of supervision may not exceed the maximum
 2468 penalty imposed by the court.
 2469 Reviser's note.—Amended to conform to the renaming of the
 2470 Florida Parole Commission as the Florida Commission on
 2471 Offender Review by s. 4, ch. 2014-191, Laws of Florida.
 2472 Section 91. Paragraph (a) of subsection (1) of section
 2473 945.215, Florida Statutes, is amended to read:
 2474 945.215 Inmate welfare and employee benefit trust funds.—
 2475 (1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS.—
 2476 (a) ~~From~~ The net proceeds from operating inmate canteens,
 2477 vending machines used primarily by inmates and visitors, hobby
 2478 shops, and other such facilities must be deposited in the
 2479 General Revenue Fund; however, funds necessary to purchase items
 2480 for resale at inmate canteens and vending machines must be
 2481 deposited into local bank accounts designated by the department.
 2482 Reviser's note.—Amended to improve clarity and facilitate
 2483 correct interpretation.
 2484 Section 92. Subsection (20) of section 1001.65, Florida
 2485 Statutes, is amended to read:
 2486 1001.65 Florida College System institution presidents;
 2487 powers and duties.—The president is the chief executive officer
 2488 of the Florida College System institution, shall be corporate
 2489 secretary of the Florida College System institution board of
 2490 trustees, and is responsible for the operation and
 2491 administration of the Florida College System institution. Each
 2492 Florida College System institution president shall:
 2493 ~~(20) Establish a committee to consider requests for waivers~~
 2494 ~~from the provisions of s. 1008.29 and approve or disapprove the~~

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2495 ~~committee's recommendations.~~

2496 Reviser's note.—Amended to delete an obsolete provision and
 2497 conform to the repeal of s. 1008.29 by s. 21, ch. 2009-59,
 2498 Laws of Florida.

2499 Section 93. Subsection (5) of section 1002.3105, Florida
 2500 Statutes, is amended to read:

2501 1002.3105 Academically Challenging Curriculum to Enhance
 2502 Learning (ACCEL) options.—

2503 (5) AWARD OF A STANDARD HIGH SCHOOL DIPLOMA.—A student who
 2504 meets the applicable grade 9 cohort graduation requirements of
 2505 s. 1003.4282(3)(a)-(e) or s. 1003.4282(9)(a)1.-5.
 2506 ~~1003.4282(10)(a)1.-5.,~~ (b)1.-5., (c)1.-5., or (d)1.-5., earns
 2507 three credits in electives, and earns a cumulative grade point
 2508 average (GPA) of 2.0 on a 4.0 scale shall be awarded a standard
 2509 high school diploma in a form prescribed by the State Board of
 2510 Education.

2511 Reviser's note.— Amended to conform to the redesignation of s.
 2512 1003.4282(10) as s. 1003.4282(9) by the editors to conform
 2513 to the repeal of s. 1003.4282(5) by s. 4, ch. 2015-6, Laws
 2514 of Florida.

2515 Section 94. Paragraph (e) of subsection (1) of section
 2516 1003.21, Florida Statutes, is amended to read:

2517 1003.21 School attendance.—

2518 (1)

2519 (e) Consistent with rules adopted by the State Board of
 2520 Education, children with disabilities who have attained the age
 2521 of 3 years shall be eligible for admission to public special
 2522 education programs and for related services. Children with
 2523 disabilities younger than 3 years of age who are deaf or hard of

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2524 hearing, ~~+~~ visually impaired, ~~+~~ dual sensory impaired, ~~+~~
 2525 orthopedically impaired, ~~or~~ other health impaired ~~or~~ who have
 2526 experienced traumatic brain injury, ~~+~~ ~~who~~ have autism spectrum
 2527 disorder, ~~have~~ established conditions, or ~~who~~ exhibit
 2528 developmental delays or intellectual disabilities may be
 2529 eligible for special programs and may receive services in
 2530 accordance with rules of the State Board of Education. Rules for
 2531 the identification of established conditions for children birth
 2532 through 2 years of age and developmental delays for children
 2533 birth through 5 years of age must be adopted by the State Board
 2534 of Education.

2535 Reviser's note.—Amended to improve clarity.

2536 Section 95. Paragraph (b) of subsection (2) of section
 2537 1003.5716, Florida Statutes, is amended to read:

2538 1003.5716 Transition to postsecondary education and career
 2539 opportunities.—All students with disabilities who are 3 years of
 2540 age to 21 years of age have the right to a free, appropriate
 2541 public education. As used in this section, the term "IEP" means
 2542 individual education plan.

2543 (2) Beginning not later than the first IEP to be in effect
 2544 when the student attains the age of 16, or younger if determined
 2545 appropriate by the parent and the IEP team, the IEP must include
 2546 the following statements that must be updated annually:

2547 (b) A statement of intent to receive a standard high school
 2548 diploma before the student attains the age of 22 and a
 2549 description of how the student will fully meet the requirements
 2550 in s. 1003.4282, including, but not limited to, a portfolio
 2551 pursuant to s. 1003.4282(10)(b) ~~1003.4282(11)(b)~~ which meets the
 2552 criteria specified in State Board of Education rule. The IEP

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2553 must also specify the outcomes and additional benefits expected
2554 by the parent and the IEP team at the time of the student's
2555 graduation.

2556 Reviser's note.—Amended to conform to the redesignation of s.
2557 1003.4282(11) as s. 1003.4282(10) by the editors to conform
2558 to the repeal of s. 1003.4282(5) by s. 4, ch. 2015-6, Laws
2559 of Florida.

2560 Section 96. Subsection (1) of section 1008.22, Florida
2561 Statutes, is reenacted, and paragraph (d) of subsection (7) of
2562 that section is amended, to read:

2563 1008.22 Student assessment program for public schools.—

2564 (1) PURPOSE.—The primary purpose of the student assessment
2565 program is to provide student academic achievement and learning
2566 gains data to students, parents, teachers, school
2567 administrators, and school district staff. This data is to be
2568 used by districts to improve instruction; by students, parents,
2569 and teachers to guide learning objectives; by education
2570 researchers to assess national and international education
2571 comparison data; and by the public to assess the cost benefit of
2572 the expenditure of taxpayer dollars. The program must be
2573 designed to:

2574 (a) Assess the achievement level and annual learning gains
2575 of each student in English Language Arts and mathematics and the
2576 achievement level in all other subjects assessed.

2577 (b) Provide data for making decisions regarding school
2578 accountability, recognition, and improvement of operations and
2579 management, including schools operating for the purpose of
2580 providing educational services to youth in Department of
2581 Juvenile Justice programs.

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2582 (c) Identify the educational strengths and needs of
2583 students and the readiness of students to be promoted to the
2584 next grade level or to graduate from high school.

2585 (d) Assess how well educational goals and curricular
2586 standards are met at the school, district, state, national, and
2587 international levels.

2588 (e) Provide information to aid in the evaluation and
2589 development of educational programs and policies.

2590 (f) When available, provide instructional personnel with
2591 information on student achievement of standards and benchmarks
2592 in order to improve instruction.

2593 (7) ASSESSMENT SCHEDULES AND REPORTING OF RESULTS.—

2594 (d) A school district may not schedule more than 5 percent
2595 of a student's total school hours in a school year to administer
2596 statewide, standardized assessments and district-required local
2597 assessments. The district must secure written consent from a
2598 student's parent before administering district-required local
2599 assessments that, after applicable statewide, standardized
2600 assessments are scheduled, exceed the 5 percent test
2601 administration limit for that student under this paragraph. The
2602 5 percent test administration limit for a student under this
2603 paragraph may be exceeded as needed to provide test
2604 accommodations that are required by an IEP or are appropriate
2605 for an English language learner who is currently receiving
2606 services in a program operated in accordance with an approved
2607 English language learner district plan pursuant to s. 1003.56.
2608 Notwithstanding this paragraph, a student may choose within a
2609 school year to take an examination or assessment adopted by
2610 State Board of Education rule pursuant to this section and ss.

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2611 1007.27, 1008.30, and 1008.44.
 2612 Reviser's note.—Section 7, ch. 2015-6, Laws of Florida,
 2613 purported to amend subsection (1) but did not publish
 2614 paragraphs (a)-(e). Absent affirmative evidence of
 2615 legislative intent to repeal the omitted paragraphs,
 2616 subsection (1) is reenacted to confirm the omission was not
 2617 intended. Paragraph (7) (d) is amended to confirm the
 2618 editorial insertion of the word "assessments" to conform to
 2619 context.
 2620 Section 97. Paragraph (c) of subsection (1) of section
 2621 1012.22, Florida Statutes, is amended to read:
 2622 1012.22 Public school personnel; powers and duties of the
 2623 district school board.—The district school board shall:
 2624 (1) Designate positions to be filled, prescribe
 2625 qualifications for those positions, and provide for the
 2626 appointment, compensation, promotion, suspension, and dismissal
 2627 of employees as follows, subject to the requirements of this
 2628 chapter:
 2629 (c) *Compensation and salary schedules.*—
 2630 1. Definitions.—As used in this paragraph:
 2631 a. "Adjustment" means an addition to the base salary
 2632 schedule that is not a bonus and becomes part of the employee's
 2633 permanent base salary and shall be considered compensation under
 2634 s. 121.021(22).
 2635 b. "Grandfathered salary schedule" means the salary
 2636 schedule or schedules adopted by a district school board before
 2637 July 1, 2014, pursuant to subparagraph 4.
 2638 c. "Instructional personnel" means instructional personnel
 2639 as defined in s. 1012.01(2) (a)-(d), excluding substitute

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2640 teachers.
 2641 d. "Performance salary schedule" means the salary schedule
 2642 or schedules adopted by a district school board pursuant to
 2643 subparagraph 5.
 2644 e. "Salary schedule" means the schedule or schedules used
 2645 to provide the base salary for district school board personnel.
 2646 f. "School administrator" means a school administrator as
 2647 defined in s. 1012.01(3) (c).
 2648 g. "Supplement" means an annual addition to the base salary
 2649 for the term of the negotiated supplement as long as the
 2650 employee continues his or her employment for the purpose of the
 2651 supplement. A supplement does not become part of the employee's
 2652 continuing base salary but shall be considered compensation
 2653 under s. 121.021(22).
 2654 2. Cost-of-living adjustment.—A district school board may
 2655 provide a cost-of-living salary adjustment if the adjustment:
 2656 a. Does not discriminate among comparable classes of
 2657 employees based upon the salary schedule under which they are
 2658 compensated.
 2659 b. Does not exceed 50 percent of the annual adjustment
 2660 provided to instructional personnel rated as effective.
 2661 3. Advanced degrees.—A district school board may not use
 2662 advanced degrees in setting a salary schedule for instructional
 2663 personnel or school administrators hired on or after July 1,
 2664 2011, unless the advanced degree is held in the individual's
 2665 area of certification and is only a salary supplement.
 2666 4. Grandfathered salary schedule.—
 2667 a. The district school board shall adopt a salary schedule
 2668 or salary schedules to be used as the basis for paying all

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2669 school employees hired before July 1, 2014. Instructional
 2670 personnel on annual contract as of July 1, 2014, shall be placed
 2671 on the performance salary schedule adopted under subparagraph 5.
 2672 Instructional personnel on continuing contract or professional
 2673 service contract may opt into the performance salary schedule if
 2674 the employee relinquishes such contract and agrees to be
 2675 employed on an annual contract under s. 1012.335. Such an
 2676 employee shall be placed on the performance salary schedule and
 2677 may not return to continuing contract or professional service
 2678 contract status. Any employee who opts into the performance
 2679 salary schedule may not return to the grandfathered salary
 2680 schedule.

2681 b. In determining the grandfathered salary schedule for
 2682 instructional personnel, a district school board must base a
 2683 portion of each employee's compensation upon performance
 2684 demonstrated under s. 1012.34 and shall provide differentiated
 2685 pay for both instructional personnel and school administrators
 2686 based upon district-determined factors, including, but not
 2687 limited to, additional responsibilities, school demographics,
 2688 critical shortage areas, and level of job performance
 2689 difficulties.

2690 5. Performance salary schedule.—By July 1, 2014, the
 2691 district school board shall adopt a performance salary schedule
 2692 that provides annual salary adjustments for instructional
 2693 personnel and school administrators based upon performance
 2694 determined under s. 1012.34. Employees hired on or after July 1,
 2695 2014, or employees who choose to move from the grandfathered
 2696 salary schedule to the performance salary schedule shall be
 2697 compensated pursuant to the performance salary schedule once

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2698 they have received the appropriate performance evaluation for
 2699 this purpose. ~~However, a classroom teacher whose performance
 2700 evaluation utilizes student learning growth measures established
 2701 under s. 1012.34(7)(c) shall remain under the grandfathered
 2702 salary schedule until his or her teaching assignment changes to
 2703 a subject for which there is an assessment or the school
 2704 district establishes equally appropriate measures of student
 2705 learning growth as defined under s. 1012.34 and rules of the
 2706 State Board of Education.~~

2707 a. Base salary.—The base salary shall be established as
 2708 follows:

2709 (I) The base salary for instructional personnel or school
 2710 administrators who opt into the performance salary schedule
 2711 shall be the salary paid in the prior year, including
 2712 adjustments only.

2713 (II) Beginning July 1, 2014, instructional personnel or
 2714 school administrators new to the district, returning to the
 2715 district after a break in service without an authorized leave of
 2716 absence, or appointed for the first time to a position in the
 2717 district in the capacity of instructional personnel or school
 2718 administrator shall be placed on the performance salary
 2719 schedule.

2720 b. Salary adjustments.—Salary adjustments for highly
 2721 effective or effective performance shall be established as
 2722 follows:

2723 (I) The annual salary adjustment under the performance
 2724 salary schedule for an employee rated as highly effective must
 2725 be greater than the highest annual salary adjustment available
 2726 to an employee of the same classification through any other

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2727 salary schedule adopted by the district.

2728 (II) The annual salary adjustment under the performance
2729 salary schedule for an employee rated as effective must be equal
2730 to at least 50 percent and no more than 75 percent of the annual
2731 adjustment provided for a highly effective employee of the same
2732 classification.

2733 (III) The performance salary schedule shall not provide an
2734 annual salary adjustment for an employee who receives a rating
2735 other than highly effective or effective for the year.

2736 c. Salary supplements.—In addition to the salary
2737 adjustments, each district school board shall provide for salary
2738 supplements for activities that must include, but are not
2739 limited to:

2740 (I) Assignment to a Title I eligible school.

2741 (II) Assignment to a school that earned a grade of "F" or
2742 three consecutive grades of "D" pursuant to s. 1008.34 such that
2743 the supplement remains in force for at least 1 year following
2744 improved performance in that school.

2745 (III) Certification and teaching in critical teacher
2746 shortage areas. Statewide critical teacher shortage areas shall
2747 be identified by the State Board of Education under s. 1012.07.
2748 However, the district school board may identify other areas of
2749 critical shortage within the school district for purposes of
2750 this sub-sub-subparagraph and may remove areas identified by the
2751 state board which do not apply within the school district.

2752 (IV) Assignment of additional academic responsibilities.

2753

2754 If budget constraints in any given year limit a district school
2755 board's ability to fully fund all adopted salary schedules, the

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2756 performance salary schedule shall not be reduced on the basis of
2757 total cost or the value of individual awards in a manner that is
2758 proportionally greater than reductions to any other salary
2759 schedules adopted by the district.

2760 Reviser's note.—Amended to conform to the repeal of s.

2761 1012.34(7)(e) by s. 12, ch. 2015-6, Laws of Florida.

2762 Section 98. Subsection (2) of section 1012.341, Florida
2763 Statutes, is amended to read:

2764 1012.341 Exemption from performance evaluation system and
2765 compensation and salary schedule requirements.—

2766 (2) ~~By October 1, 2014, and~~ By October 1 annually
2767 ~~thereafter~~, the superintendent of Hillsborough County School
2768 District shall attest, in writing, to the Commissioner of
2769 Education that:

2770 (a) The instructional personnel and school administrator
2771 evaluation systems base at least 40 percent of an employee's
2772 performance evaluation upon student performance and that student
2773 performance is the single greatest component of an employee's
2774 evaluation.

2775 (b) The instructional personnel and school administrator
2776 evaluation systems adopt the Commissioner of Education's student
2777 learning growth formula for statewide assessments as provided
2778 under s. 1012.34(7).

2779 (c) The school district's instructional personnel and
2780 school administrator compensation system awards salary increases
2781 based upon sustained student performance.

2782 (d) The school district's contract system awards
2783 instructional personnel and school administrators based upon
2784 student performance and removes ineffective employees.

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2786 This section is repealed August 1, 2017, unless reviewed and
2787 reenacted by the Legislature.

2788 Reviser's note.—Amended to delete an obsolete provision.

2789 Section 99. This act shall take effect on the 60th day
2790 after adjournment sine die of the session of the Legislature in
2791 which enacted.

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 Rules

BILL: SB 1040

INTRODUCER: Senator Simmons

SUBJECT: Florida Statutes

DATE: January 13, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Pollitz (DLRI)	Phelps	RC	Pre-meeting

I. Summary:

The Division of Law Revision and Information of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills. A reviser's bill cannot be amended except to delete a bill section.

This bill deletes statutes provisions that have been repealed by a noncurrent (past-year) session of the Legislature where that repeal or expiration date has now occurred, rendering the provision of no effect (an example would be a repeal set for October 1, 2015, by the 2014 Regular Session of the Legislature).

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 29.008, 255.25001, 339.135, 373.4137, 379.204, 403.7095, 409.997, 465.1862, 527.06, 553.844, 627.410, 627.411, 627.601, 627.6699, 627.66997, 641.31, 1002.20, 1011.62, and 1013.64, F.S.; repeals ss. 15.0525, 627.648, 627.6482, 627.6484, 627.6486, 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, 627.6498, 627.6499, and 1003.438, F.S.

II. Present Situation:

The Division of Law Revision and Information, under the authority and requirements of s. 11.242(5)(b) and (i), Florida Statutes, must remove repealed statutory provisions from the statutes text where the repeal was voted by the Legislature sitting in the current year; sections effectively repealed but where that repeal was passed by a past-year session of the Legislature can only be omitted from the statutes text through a reviser's bill pursuant to s. 11.242(5)(i).

III. Effect of Proposed Changes:

This bill will delete sections that have already been repealed by the Legislature by substantive legislation that the Division of Law Revision and Information could not remove from the statutes text without the required inclusion in a reviser's bill.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 29.008, 255.25001, 339.135, 373.4137, 379.204, 403.7095, 409.997, 465.1862, 527.06, 553.844, 627.410, 627.411, 627.601, 627.6699, 627.66997, 641.31, 1002.20, 1011.62, and 1013.64, F.S. This bill creates the following sections of the Florida Statutes: None.

This bill repeals the following sections of the Florida Statutes: ss. 15.0525, 627.648, 627.6482, 627.6484, 627.6486, 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, 627.6498, 627.6499, and 1003.438, F.S.

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.

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

By Senator Simmons

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1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes; repealing ss.
 3 15.0525, 29.008(4)(c), 255.25001(3), 339.135(4)(j) and
 4 (5)(c), 373.4137(3)(f), 379.204(3), 403.7095(5),
 5 409.997(2), 527.06(3)(b) as created by section 1 of
 6 chapter 2011-106, Laws of Florida, 553.844(4),
 7 627.410(9), 627.411(4), 627.648, 627.6482, 627.6484,
 8 627.6486, 627.6488, 627.6489, 627.649, 627.6492,
 9 627.6494, 627.6496, 627.6498, 627.6499, 641.31(3)(f),
 10 and 1003.438, F.S., and amending ss. 409.997, 1011.62
 11 as amended by section 9 of chapter 2015-222, Laws of
 12 Florida, and 1013.64, F.S., to delete provisions which
 13 have become inoperative by noncurrent repeal or
 14 expiration and, pursuant to s. 11.242(5)(b) and (i),
 15 F.S., may be omitted from the 2016 Florida Statutes
 16 only through a reviser's bill duly enacted by the
 17 Legislature; amending ss. 465.1862, 627.601, 627.6699,
 18 627.66997, and 1002.20, F.S., to conform cross-
 19 references; providing an effective date.

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

22
 23 Section 1. Section 15.0525, Florida Statutes, is repealed.

24 Reviser's note.—The cited section, which relates to the Admiral
 25 John H. Fetterman State of Florida Maritime Museum and
 26 Research Center, expired pursuant to its own terms,
 27 effective July 1, 2015.

28 Section 2. Paragraph (c) of subsection (4) of section
 29 29.008, Florida Statutes, is repealed.

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30 Reviser's note.—The cited paragraph, which exempts counties from
 31 the requirements and provisions of s. 29.008(4)(a) for the
 32 2014-2015 fiscal year, expired pursuant to its own terms,
 33 effective July 1, 2015.

34 Section 3. Subsection (3) of section 255.25001, Florida
 35 Statutes, is repealed.

36 Reviser's note.—The cited subsection, which provides for deposit
 37 of funds from the sale of property located in Sanford,
 38 Florida, by the Department of Agriculture and Consumer
 39 Services to the Market Improvements Working Capital Trust
 40 Fund, expired pursuant to its own terms, effective July 1,
 41 2015.

42 Section 4. Paragraph (j) of subsection (4) and paragraph
 43 (c) of subsection (5) of section 339.135, Florida Statutes, are
 44 repealed.

45 Reviser's note.—The cited paragraphs, which relate to Department
 46 of Transportation use, for the 2014-2015 fiscal year only,
 47 of up to \$15 million of appropriated funds to pay the costs
 48 of strategic and regionally significant transportation
 49 projects, expired pursuant to their own terms, effective
 50 July 1, 2015.

51 Section 5. Paragraph (f) of subsection (3) of section
 52 373.4137, Florida Statutes, is repealed.

53 Reviser's note.—The cited paragraph requires funds identified in
 54 the Department of Transportation's work program or
 55 participating transportation authorities' escrow accounts
 56 to correspond to a cost per acre of \$75,000 multiplied by
 57 the projected acres of impact as identified in the
 58 environmental impact inventory for purposes of preparing

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59 and implementing the mitigation plans to be adopted by the
 60 water management districts on or before March 1, 2014, for
 61 impacts based on the July 1, 2013, environmental impact
 62 inventory, and for adjustment to a specified percentage
 63 change in the average of the Consumer Price Index. Payment
 64 under this paragraph is limited to mitigation activities
 65 that are identified in the first year of the 2013
 66 mitigation plan and for which the transportation project is
 67 permitted and are in the department's adopted work program,
 68 or equivalent for a transportation authority. When
 69 implementing the mitigation activities necessary to offset
 70 the permitted impacts as provided in the approved
 71 mitigation plan, the water management district shall
 72 maintain specified records of the costs incurred in
 73 implementing the mitigation. To the extent moneys paid to a
 74 water management district by the department or a
 75 participating transportation authority are greater than the
 76 amount spent by the water management districts in
 77 implementing the mitigation to offset the permitted
 78 impacts, these funds must be refunded to the department or
 79 participating transportation authority. This paragraph
 80 expired pursuant to its own terms, effective June 30, 2015.

81 Section 6. Subsection (3) of section 379.204, Florida
 82 Statutes, is repealed.

83 Reviser's note.—The cited subsection, which authorizes transfer
 84 of the cash balance originating from hunting and fishing
 85 license fees from other trust funds into the Federal Grants
 86 Trust Fund for the purpose of supporting cash flow needs,
 87 expired pursuant to its own terms, effective July 1, 2012.

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88 Section 7. Subsection (5) of section 403.7095, Florida
 89 Statutes, is repealed.

90 Reviser's note.—The cited subsection, which requires the
 91 Department of Environmental Protection, for the 2014-2015
 92 fiscal year only, to award the sum of \$3 million in grants
 93 equally to counties having populations of fewer than
 94 100,000 for waste tire and litter prevention, recycling
 95 education, and general solid waste programs, expired
 96 pursuant to its own terms, effective July 1, 2015.

97 Section 8. Subsection (2) of section 409.997, Florida
 98 Statutes, is repealed, and subsection (4) of that section is
 99 amended to read:

100 409.997 Child welfare results-oriented accountability
 101 program.—

102 ~~(3)(4) Subject to a specific appropriation to implement the~~
 103 ~~accountability program developed under subsection (2),~~ The
 104 department shall establish a technical advisory panel consisting
 105 of representatives from the Florida Institute for Child Welfare
 106 established pursuant to s. 1004.615, lead agencies, community-
 107 based care providers, other contract providers, community
 108 alliances, and family representatives. The President of the
 109 Senate and the Speaker of the House of Representatives shall
 110 each appoint a member to serve as a legislative liaison to the
 111 panel. The technical advisory panel shall advise the department
 112 on the implementation of the results-oriented accountability
 113 program.

114 Reviser's note.—Subsection (2), which relates to contracting for
 115 and submittal of a plan for implementing the child welfare
 116 results-oriented accountability program, expired pursuant

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117 to its own terms, effective June 30, 2015. Subsection (4)
 118 is amended to conform to the expiration of subsection (2).
 119 Section 9. Paragraph (b) of subsection (3) of section
 120 527.06, Florida Statutes, as created by section 1 of chapter
 121 2011-106, Laws of Florida, is repealed.
 122 Reviser's note.—The cited paragraph, which provides that the
 123 department or other state agency may not require compliance
 124 with the minimum separation distances of NFPA 58 for
 125 separation between a liquefied petroleum gas tank and a
 126 building, adjoining property line, other liquefied
 127 petroleum gas tank, or any source of ignition, except in
 128 compliance with the minimum separation distances of the
 129 2011 edition of NFPA 58, expired pursuant to its own terms
 130 "upon the last effective date of rules adopted, directly or
 131 incorporated by reference, by the department, the Florida
 132 Building Commission as part of the Florida Building Code,
 133 and the Office of State Fire Marshal as part of the Florida
 134 Fire Prevention Code of these minimum separation distances
 135 contained in the 2011 edition of NFPA 58, promulgated by
 136 the National Fire Protection Association." Rules 5J-20.002
 137 and 69A-3.012, Florida Administrative Code, incorporate
 138 NFPA 58 (2011 edition) re storage and handling of liquefied
 139 petroleum gas; s. 401.2 of the Florida Building Code also
 140 incorporates the NFPA 58 standard. Two conflicting laws,
 141 chapters 2011-106, Laws of Florida, and 2011-222, Laws of
 142 Florida, amended s. 527.06 and included very similar
 143 language; paragraph (3) (b) as created by s. 1, ch. 2011-
 144 106, expired pursuant to adoption of the rules, and
 145 subsection (3), as amended by s. 19, ch. 2011-222, was

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146 repealed upon adoption of the rules.
 147 Section 10. Subsection (4) of section 553.844, Florida
 148 Statutes, is repealed.
 149 Reviser's note.—The cited subsection, which provides that
 150 exposed mechanical equipment or appliances fastened to a
 151 roof or installed on the ground in compliance with the code
 152 using rated stands, platforms, curbs, slabs, or other means
 153 are deemed to comply with the wind resistance requirements
 154 of the 2007 Florida Building Code, as amended, and further
 155 support or enclosure of such mechanical equipment or
 156 appliance is not required by a state or local official
 157 having authority to enforce the Florida Building Code,
 158 expired pursuant to its own terms, on the effective date of
 159 the 2013 Florida Building Code. The new edition of the code
 160 became effective June 30, 2015, but the Florida Building
 161 Commission elected to rename it as the 2014 Florida
 162 Building Code.
 163 Section 11. Subsection (9) of section 627.410, Florida
 164 Statutes, is repealed.
 165 Reviser's note.—The cited subsection, which provides that, for
 166 plan years 2014 and 2015, nongrandfathered health plans for
 167 the individual or small group market are not subject to
 168 rate review or approval by the Office of Insurance
 169 Regulation, was repealed pursuant to its own terms,
 170 effective March 1, 2015.
 171 Section 12. Subsection (4) of section 627.411, Florida
 172 Statutes, is repealed.
 173 Reviser's note.—The cited subsection, which provides that the
 174 provisions of s. 627.411 which apply to rates, rating

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175 practices, or the relationship of benefits to the premium
 176 charged do not apply to nongrandfathered health plans
 177 described in s. 627.410(9), was repealed pursuant to its
 178 own terms, effective March 1, 2015.

179 Section 13. Sections 627.648, 627.6482, 627.6484, 627.6486,
 180 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496,
 181 627.6498, and 627.6499, Florida Statutes, are repealed.

182 Reviser's note.—The cited sections, which relate to the Florida
 183 Comprehensive Health Association, were repealed by s. 20,
 184 ch. 2013-101, Laws of Florida, effective October 1, 2015.
 185 Since the sections were not repealed by a "current session"
 186 of the Legislature, they may be omitted from the 2016
 187 Florida Statutes only through a reviser's bill duly enacted
 188 by the Legislature. See s. 11.242(5)(b) and (i).

189 Section 14. Paragraph (f) of subsection (3) of section
 190 641.31, Florida Statutes, is repealed.

191 Reviser's note.—The cited paragraph, which, for plan years 2014
 192 and 2015, provides that nongrandfathered health plans for
 193 the individual or small group market are not subject to
 194 rate review or approval by the office, and that a health
 195 maintenance organization that issues or renews a
 196 nongrandfathered health plan is subject to s. 627.410(9),
 197 expired pursuant to its own terms, effective March 1, 2015.

198 Section 15. Section 1003.438, Florida Statutes, is
 199 repealed.

200 Reviser's note.—The cited section, which relates to special high
 201 school graduation requirements for certain exceptional
 202 students, was repealed by s. 19, ch. 2014-184, Laws of
 203 Florida, effective July 1, 2015. Since the section was not

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204 repealed by a "current session" of the Legislature, it may
 205 be omitted from the 2016 Florida Statutes only through a
 206 reviser's bill duly enacted by the Legislature. See s.
 207 11.242(5)(b) and (i).

208 Section 16. Effective July 1, 2016, paragraph (e) of
 209 subsection (4) of section 1011.62, Florida Statutes, as amended
 210 by section 9 of chapter 2015-222, Laws of Florida, is amended to
 211 read:

212 1011.62 Funds for operation of schools.—If the annual
 213 allocation from the Florida Education Finance Program to each
 214 district for operation of schools is not determined in the
 215 annual appropriations act or the substantive bill implementing
 216 the annual appropriations act, it shall be determined as
 217 follows:

218 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
 219 Legislature shall prescribe the aggregate required local effort
 220 for all school districts collectively as an item in the General
 221 Appropriations Act for each fiscal year. The amount that each
 222 district shall provide annually toward the cost of the Florida
 223 Education Finance Program for kindergarten through grade 12
 224 programs shall be calculated as follows:

225 (e) *Prior period funding adjustment millage.*—

226 1. There shall be an additional millage to be known as the
 227 Prior Period Funding Adjustment Millage levied by a school
 228 district if the prior period unrealized required local effort
 229 funds are greater than zero. The Commissioner of Education shall
 230 calculate the amount of the prior period unrealized required
 231 local effort funds as specified in subparagraph 2. and the
 232 millage required to generate that amount as specified in this

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233 subparagraph. The Prior Period Funding Adjustment Millage shall
 234 be the quotient of the prior period unrealized required local
 235 effort funds divided by the current year taxable value certified
 236 to the Commissioner of Education pursuant to sub-subparagraph
 237 (a)1.a. This levy shall be in addition to the required local
 238 effort millage certified pursuant to this subsection. Such
 239 millage shall not affect the calculation of the current year's
 240 required local effort, and the funds generated by such levy
 241 shall not be included in the district's Florida Education
 242 Finance Program allocation for that fiscal year. For purposes of
 243 the millage to be included on the Notice of Proposed Taxes, the
 244 Commissioner of Education shall adjust the required local effort
 245 millage computed pursuant to paragraph (a) as adjusted by
 246 paragraph (b) for the current year for any district that levies
 247 a Prior Period Funding Adjustment Millage to include all Prior
 248 Period Funding Adjustment Millage. For the purpose of this
 249 paragraph, there shall be a Prior Period Funding Adjustment
 250 Millage levied for each year certified by the Department of
 251 Revenue pursuant to sub-subparagraph (a)2.a. since the previous
 252 year certification and for which the calculation in sub-
 253 subparagraph 2.b. is greater than zero.

254 2.a. As used in this subparagraph, the term:

255 (I) "Prior year" means a year certified under sub-
 256 subparagraph (a)2.a.

257 (II) "Preliminary taxable value" means:

258 (A) If the prior year is the 2009-2010 fiscal year or
 259 later, the taxable value certified to the Commissioner of
 260 Education pursuant to sub-subparagraph (a)1.a.

261 (B) If the prior year is the 2008-2009 fiscal year or

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262 earlier, the taxable value certified pursuant to the final
 263 calculation as specified in former paragraph (b) as that
 264 paragraph existed in the prior year.

265 (III) "Final taxable value" means the district's taxable
 266 value as certified by the property appraiser pursuant to s.
 267 193.122(2) or (3), if applicable. This is the certification that
 268 reflects all final administrative actions of the value
 269 adjustment board.

270 b. For purposes of this subsection and with respect to each
 271 year certified pursuant to sub-subparagraph (a)2.a., if the
 272 district's prior year preliminary taxable value is greater than
 273 the district's prior year final taxable value, the prior period
 274 unrealized required local effort funds are the difference
 275 between the district's prior year preliminary taxable value and
 276 the district's prior year final taxable value, multiplied by the
 277 prior year district required local effort millage. If the
 278 district's prior year preliminary taxable value is less than the
 279 district's prior year final taxable value, the prior period
 280 unrealized required local effort funds are zero.

281 ~~e. For the 2014-2015 fiscal year only, if a district's~~
 282 ~~prior period unrealized required local effort funds and prior~~
 283 ~~period district required local effort millage cannot be~~
 284 ~~determined because such district's final taxable value has not~~
 285 ~~yet been certified pursuant to s. 193.122(2) or (3), for the~~
 286 ~~2014 tax levy, the Prior Period Funding Adjustment Millage for~~
 287 ~~such fiscal year shall be levied in 2014 in an amount equal to~~
 288 ~~75 percent of such district's most recent unrealized required~~
 289 ~~local effort for which a Prior Period Funding Adjustment Millage~~
 290 ~~was determined as provided in this section. Upon certification~~

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291 ~~of the final taxable value for the 2013 tax roll in accordance~~
 292 ~~with s. 193.122(2) or (3), the Prior Period Funding Adjustment~~
 293 ~~Millage levied in 2015 shall be adjusted to include any~~
 294 ~~shortfall or surplus in the prior period unrealized required~~
 295 ~~local effort funds that would have been levied in 2014, had the~~
 296 ~~district's final taxable value been certified pursuant to s.~~
 297 ~~193.122(2) or (3) for the 2014 tax levy. This provision shall be~~
 298 ~~implemented by a district only if the millage calculated~~
 299 ~~pursuant to this paragraph when added to the millage levied by~~
 300 ~~the district for all purposes for the 2014-2015 fiscal year is~~
 301 ~~less than or equal to the total millage levied for the 2013-2014~~
 302 ~~fiscal year. This sub-subparagraph expires July 1, 2015.~~
 303 Reviser's note.—Amended, as amended by s. 9, ch. 2015-222, Laws
 304 of Florida, effective July 1, 2016, to delete sub-
 305 subparagraph (4)(e)2.c., to conform to the expiration of
 306 that sub-subparagraph pursuant to its own terms, effective
 307 July 1, 2015.
 308 Section 17. Paragraph (a) of subsection (1) of section
 309 1013.64, Florida Statutes, is amended to read:
 310 1013.64 Funds for comprehensive educational plant needs;
 311 construction cost maximums for school district capital
 312 projects.—Allocations from the Public Education Capital Outlay
 313 and Debt Service Trust Fund to the various boards for capital
 314 outlay projects shall be determined as follows:
 315 (1) ~~(a)1-~~ Funds for remodeling, renovation, maintenance,
 316 repairs, and site improvement for existing satisfactory
 317 facilities shall be given priority consideration by the
 318 Legislature for appropriations allocated to the boards from the
 319 total amount of the Public Education Capital Outlay and Debt

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320 Service Trust Fund appropriated. These funds shall be calculated
 321 pursuant to the following basic formula: the building value
 322 times the building age over the sum of the years' digits
 323 assuming a 50-year building life. For modular noncombustible
 324 facilities, a 35-year life shall be used, and for relocatable
 325 facilities, a 20-year life shall be used. "Building value" is
 326 calculated by multiplying each building's total assignable
 327 square feet times the appropriate net-to-gross conversion rate
 328 found in state board rules and that product times the current
 329 average new construction cost. "Building age" is calculated by
 330 multiplying the prior year's building age times 1 minus the
 331 prior year's sum received from this subsection divided by the
 332 prior year's building value. To the net result shall be added
 333 the number 1. Each board shall receive the percentage generated
 334 by the preceding formula of the total amount appropriated for
 335 the purposes of this section.
 336 ~~2. Notwithstanding subparagraph 1., and for the 2014-2015~~
 337 ~~fiscal year only, funds appropriated for remodeling, renovation,~~
 338 ~~maintenance, repairs, and site improvement for existing~~
 339 ~~satisfactory facilities shall be allocated by prorating the~~
 340 ~~total appropriation based on each school district's share of the~~
 341 ~~2013-2014 reported fixed capital outlay full-time equivalent~~
 342 ~~student. This subparagraph expires July 1, 2015.~~
 343 Reviser's note.—Amended to delete subparagraph 2., which expired
 344 pursuant to its own terms, effective July 1, 2015.
 345 Section 18. Paragraph (b) of subsection (1) of section
 346 465.1862, Florida Statutes, is amended to read:
 347 465.1862 Pharmacy benefits manager contracts.—
 348 (1) As used in this section, the term:

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349 (b) "Pharmacy benefits manager" means a person or entity
 350 doing business in this state which contracts to administer or
 351 manage prescription drug benefits on behalf of a health
 352 insurance plan, as defined in former s. 627.6482, to residents
 353 of this state.
 354 Reviser's note.—Amended to conform to the repeal of s. 627.6482
 355 by s. 20, ch. 2013-101, Laws of Florida, effective October
 356 1, 2015, and confirmed in this act.
 357 Section 19. Subsection (2) of section 627.601, Florida
 358 Statutes, is amended to read:
 359 627.601 Scope of this part.—Nothing in this part applies to
 360 or affects:
 361 (2) Any group or blanket policy, ~~except as provided in ss.~~
 362 ~~627.648-627.6499.~~
 363 Reviser's note.—Amended to conform to the repeal of ss. 627.648,
 364 627.6482, 627.6484, 627.6486, 627.6488, 627.6489, 627.649,
 365 627.6492, 627.6494, 627.6496, 627.6498, and 627.6499, which
 366 relate to the Florida Comprehensive Health Association, by
 367 s. 20, ch. 2013-101, Laws of Florida, effective October 1,
 368 2015, and confirmed in this act. Sections 627.6487 and
 369 627.64871 were created by ch. 97-179, Laws of Florida. The
 370 most recent amendment to s. 627.601 was by s. 53, ch. 92-
 371 318, Laws of Florida.
 372 Section 20. Paragraph (b) of subsection (15) of section
 373 627.6699, Florida Statutes, is amended to read:
 374 627.6699 Employee Health Care Access Act.—
 375 (15) APPLICABILITY OF OTHER STATE LAWS.—
 376 ~~(b) Any second tier assessment paid by a carrier pursuant~~
 377 ~~to paragraph (11)(j) may be credited against assessments levied~~

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378 ~~against the carrier pursuant to s. 627.6494.~~
 379 Reviser's note.—Amended to conform to the repeal of s. 627.6494
 380 by s. 20, ch. 2013-101, Laws of Florida, effective October
 381 1, 2015, and confirmed by this act.
 382 Section 21. Subsection (2) of section 627.66997, Florida
 383 Statutes, is amended to read:
 384 627.66997 Stop-loss insurance.—
 385 (2) A self-insured health benefit plan established or
 386 maintained by an employer with 51 or more covered employees is
 387 considered health insurance if the plan's stop-loss coverage, as
 388 defined in former s. 627.6482(14), has an aggregate attachment
 389 point that is lower than the greater of:
 390 (a) One hundred ten percent of expected claims, as
 391 determined by the stop-loss insurer in accordance with actuarial
 392 standards of practice; or
 393 (b) Twenty thousand dollars.
 394 Reviser's note.—Amended to conform to the repeal of s. 627.6482
 395 by s. 20, ch. 2013-101, Laws of Florida, effective October
 396 1, 2015, and confirmed by this act.
 397 Section 22. Subsection (8) of section 1002.20, Florida
 398 Statutes, is amended to read:
 399 1002.20 K-12 student and parent rights.—Parents of public
 400 school students must receive accurate and timely information
 401 regarding their child's academic progress and must be informed
 402 of ways they can help their child to succeed in school. K-12
 403 students and their parents are afforded numerous statutory
 404 rights including, but not limited to, the following:
 405 (8) STUDENTS WITH DISABILITIES.—Parents of public school
 406 students with disabilities and parents of public school students

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407 in residential care facilities are entitled to notice and due
408 process in accordance with the provisions of ss. 1003.57 and
409 1003.58. Public school students with disabilities must be
410 provided the opportunity to meet the graduation requirements for
411 a standard high school diploma as set forth in s. 1003.4282 in
412 accordance with the provisions of ss. 1003.57 and 1008.22.
413 ~~Pursuant to s. 1003.438, certain public school students with~~
414 ~~disabilities may be awarded a special diploma upon high school~~
415 ~~graduation.~~

416 Reviser's note.—Amended to conform to the repeal of s. 1003.438
417 by s. 19, ch. 2014-184, Laws of Florida, effective July 1,
418 2015, and confirmed by this act.

419 Section 23. This act shall take effect on the 60th day
420 after adjournment sine die of the session of the Legislature in
421 which enacted.

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 Rules

BILL: SB 1032

INTRODUCER: Senator Simmons

SUBJECT: Florida Statutes

DATE: January 13, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Pollitz (DLRI)</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

I. Summary:

The Division of Law Revision and Information of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills. Responses to directives from the Legislature to make specific changes in the statutes, such as renaming a department, are also submitted to the Legislature via reviser's bills.

Section 9, ch. 2012-116, Laws of Florida, created s. 11.242(5)(j), Florida Statutes, requiring the Division of Law Revision and Information to omit statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes as part of the reviser's bill process for each regular session.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 487.064, 487.071, 493.6113, 493.6115, 570.921, 573.1201, 583.181, and 593.107, F.S.

II. Present Situation:

Section 9, ch. 2012-116, Laws of Florida, created s. 11.242(5)(j), Florida Statutes, requiring the Division of Law Revision and Information to prepare reviser's bills each regular session to omit all statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes. Rulemaking authority is deemed unused if the statutory provision "has been in effect for more than 5 years and no rule has been promulgated in reliance thereon."

III. Effect of Proposed Changes:

The bill revises Florida Statutes text to conform to the directive in s. 9, ch. 2012-116, Laws of Florida, codified as s. 11.242(5)(j), Florida Statutes, to omit statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 487.064, 487.071, 493.6113, 493.6115, 570.921, 573.1201, 583.181, 593.107.

This bill creates the following sections of the Florida Statutes: None.

This bill repeals the following sections of the Florida Statutes: None.

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.

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



560448

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 29 - 91.

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

And the title is amended as follows:

Delete line 3

and insert:

487.064, 487.071, 570.921,

By Senator Simmons

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1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes; amending ss.
 3 487.064, 487.071, 493.6113, 493.6115, 570.921,
 4 573.1201, 583.181, and 593.107, F.S., to conform to
 5 the directive of the Legislature in section 9 of
 6 chapter 2012-116, Laws of Florida, codified as section
 7 11.242(5)(j), Florida Statutes, to prepare a reviser's
 8 bill to omit all statutes and laws, or parts thereof,
 9 which grant duplicative, redundant, or unused
 10 rulemaking authority; providing an effective date.

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

14 Section 1. Subsection (3) of section 487.064, Florida
 15 Statutes, is amended to read:

16 487.064 Antisiphon requirements for irrigation systems.-

17 ~~(3) The department may establish by rule specific~~
 18 ~~requirements for antisiphon devices and for sites where~~
 19 ~~pesticide mixing-loading occurs.~~

20 Section 2. Paragraph (b) of subsection (7) of section
 21 487.071, Florida Statutes, is amended to read:

22 487.071 Enforcement, inspection, sampling, and analysis.-

23 (7)

24 (b) The department shall establish ~~by rule~~ a fee schedule
 25 for pesticide samples analyzed upon request. The fees shall be
 26 sufficient to cover the costs to the department for taking the
 27 samples and performing the analysis. However, no fee shall
 28 exceed \$400 per test.

29 Section 3. Paragraph (b) of subsection (3) of section

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30 493.6113, Florida Statutes, is amended to read:

31 493.6113 Renewal application for licensure.-

32 (3) Each licensee is responsible for renewing his or her
 33 license on or before its expiration by filing with the
 34 department an application for renewal accompanied by payment of
 35 the prescribed license fee.

36 (b) Each Class "G" licensee shall additionally submit proof
 37 that he or she has received during each year of the license
 38 period a minimum of 4 hours of firearms recertification training
 39 taught by a Class "K" licensee and has complied with such other
 40 health and training requirements that the department shall adopt
 41 ~~by rule~~. Proof of completion of firearms recertification
 42 training shall be submitted to the department upon completion of
 43 the training. If the licensee fails to complete the required 4
 44 hours of annual training during the first year of the 2-year
 45 term of the license, the license shall be automatically
 46 suspended. The licensee must complete the minimum number of
 47 hours of range and classroom training required at the time of
 48 initial licensure and submit proof of completion of such
 49 training to the department before the license may be reinstated.
 50 If the licensee fails to complete the required 4 hours of annual
 51 training during the second year of the 2-year term of the
 52 license, the licensee must complete the minimum number of hours
 53 of range and classroom training required at the time of initial
 54 licensure and submit proof of completion of such training to the
 55 department before the license may be renewed. The department may
 56 waive the firearms training requirement if:

57 1. The applicant provides proof that he or she is currently
 58 certified as a law enforcement officer or correctional officer

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59 under the Criminal Justice Standards and Training Commission and
60 has completed law enforcement firearms requalification training
61 annually during the previous 2 years of the licensure period;

62 2. The applicant provides proof that he or she is currently
63 certified as a federal law enforcement officer and has received
64 law enforcement firearms training administered by a federal law
65 enforcement agency annually during the previous 2 years of the
66 licensure period; or

67 3. The applicant submits a valid firearm certificate among
68 those specified in s. 493.6105(6) (a) and provides proof of
69 having completed requalification training during the previous 2
70 years of the licensure period.

71 Section 4. Subsection (16) of section 493.6115, Florida
72 Statutes, is amended to read:

73 493.6115 Weapons and firearms.—

74 (16) If the criminal history record check program
75 referenced in s. 493.6108(1) is inoperable, the department may
76 issue a temporary "G" license on a case-by-case basis, provided
77 that the applicant has met all statutory requirements for the
78 issuance of a temporary "G" license as specified in subsection
79 (12), excepting the criminal history record check stipulated
80 there; provided, that the department requires that the licensed
81 employer of the applicant conduct a criminal history record
82 check of the applicant pursuant to standards set forth ~~in rule~~
83 by the department, and provide to the department an affidavit
84 containing such information and statements as required by the
85 department, including a statement that the criminal history
86 record check did not indicate the existence of any criminal
87 history that would prohibit licensure. Failure to properly

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88 conduct such a check, or knowingly providing incorrect or
89 misleading information or statements in the affidavit
90 constitutes grounds for disciplinary action against the licensed
91 agency, including revocation of license.

92 Section 5. Section 570.921, Florida Statutes, is amended to
93 read:

94 570.921 Environmental Stewardship Certification Program.—
95 The department may, ~~by rule~~, establish the Environmental
96 Stewardship Certification Program consistent with this section.
97 ~~A rule adopted under this section must be developed in~~
98 ~~consultation with state universities, agricultural~~
99 ~~organizations, and other interested parties.~~

100 (1) The program must:

101 (a) Be integrated, to the maximum extent practicable, with
102 programs that are sponsored by agricultural organizations or
103 state universities.

104 (b) Be designed to recognize and promote agricultural
105 operations or homeowner practices that demonstrate exemplary
106 resource management that is related to environmental
107 stewardship.

108 (c) Include a process to periodically review a
109 certification to ensure compliance with the program
110 requirements, including implementation by the certificateholder.

111 (d) Require periodic continuing education in relevant
112 environmental stewardship issues in order to maintain
113 certification.

114 (2) The department shall provide an agricultural
115 certification under this program for implementation of one or
116 more of the following criteria:

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117 (a) A voluntary agreement between an agency and an
118 agricultural producer for environmental improvement or water-
119 resource protection.

120 (b) A conservation plan that meets or exceeds the
121 requirements of the United States Department of Agriculture.

122 (c) Best management practices adopted ~~by rule~~ pursuant to
123 s. 403.067(7) (c) or s. 570.93(1) (b).

124 (3) The Soil and Water Conservation Council created by s.
125 582.06 may develop and recommend to the department for adoption
126 additional criteria for receipt of an agricultural certification
127 which may include, but not be limited to:

128 (a) Comprehensive management of all on-farm resources.

129 (b) Promotion of environmental awareness and responsible
130 resource stewardship in agricultural or urban communities.

131 (c) Completion of a curriculum of study that is related to
132 environmental issues and regulation.

133 (4) If needed, the department and the Institute of Food and
134 Agricultural Sciences at the University of Florida may jointly
135 develop a curriculum that provides instruction concerning
136 environmental issues pertinent to agricultural certification and
137 deliver such curriculum to, and certify its completion by, any
138 person seeking certification or to maintain certification.

139 (5) The department may enter into agreements with third-
140 party providers to administer or implement all or part of the
141 program.

142 Section 6. Subsection (1) of section 573.1201, Florida
143 Statutes, is amended to read:

144 573.1201 Certificates of exemption.—

145 ~~(1) The department may adopt procedures pursuant to which~~

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146 ~~certificates of exemption will be issued to producers or~~
147 ~~handlers.~~

148 Section 7. Paragraph (a) of subsection (3) of section
149 583.181, Florida Statutes, is amended to read:

150 583.181 Disposal of dead poultry and hatchery residue;
151 inspection and quarantine; penalties.—

152 (3) POWERS AND DUTIES.—In the discharge of its duties under
153 this section, the department has the power:

154 (a) ~~To prescribe promulgate rules prescribing~~ satisfactory
155 facilities and equipment for the handling, destruction, and
156 disposal of dead birds and hatchery residue so as to prevent the
157 spread or dissemination of diseases of poultry.

158 Section 8. Section 593.107, Florida Statutes, is amended to
159 read:

160 593.107 Regulation of collection, transportation,
161 distribution, and movement of cotton.—Each grower of cotton
162 shall keep and furnish the department such information as it
163 may, ~~by rule~~, require regarding the collection, transportation,
164 distribution, and processing of cotton for the purpose of
165 determining if the cotton is infested with the boll weevil.
166 Further, each such grower is required to keep and maintain
167 sanitary at all times her or his vehicles used in the
168 collection, transportation, and distribution of cotton ~~under~~
169 ~~such rules~~ as may be required by the department. The department
170 may govern ~~promulgate rules governing~~ the movement of regulated
171 articles within the state and from another state, or portion
172 thereof, into an eradication zone when that state is known to be
173 infested with the boll weevil.

174 Reviser's note.—Amends or repeals provisions of the Florida

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175 Statutes pursuant to the directive of the Legislature in s.
176 9, ch. 2012-116, Laws of Florida, codified as s.
177 11.242(5)(j), Florida Statutes, to prepare a reviser's bill
178 to omit all statutes and laws, or parts thereof, which
179 grant duplicative, redundant, or unused rulemaking
180 authority.
181 Section 9. This act shall take effect on the 60th day after
182 adjournment sine die of the session of the Legislature in which
183 enacted.

Proposed Revision of Rule 14.1

14.1—Seal and insignia

(1) There shall be an official seal of the Senate. The seal shall be the size of a circle of two and one-half inches diameter having in the center thereof a fan of the ~~1513 Spanish flag, the current Florida state flag, and the current United States flag, the 1564 French flag, and the 1763 flag of Great Britain that have flown, or presently fly, over Florida~~, above a disc containing the words: “In God We Trust” arched above a gavel, quill, and scroll. At the top of the field of flags shall be the word: “Seal.” At the bottom shall be the date: “1838.” The perimeter of the seal shall contain the words: “Senate” and “State of Florida.”

(2) There shall be an official coat of arms for the Senate. The coat of arms shall contain a fan of ~~the 1513 Spanish flag, the current Florida state flag, and the current United States flag, the 1564 French flag, and the 1763 flag of Great Britain that have flown, or presently fly, over Florida~~, above the Great Seal of Florida. At the base of the coat of arms shall be the words: “The Florida Senate.”

(3) All versions of the Senate Seal, the Senate Coat of Arms, official Senate stationery, calling cards, and facsimiles thereof may be used only in connection with official Senate business.

CourtSmart Tag Report

Room: EL 110
Caption: Senate Rules Committee

Case No.:
Judge:

Type:

Started: 1/14/2016 10:03:57 AM
Ends: 1/14/2016 10:45:27 AM Length: 00:41:31

10:04:00 AM Senator Simmons calls the meeting to order
10:04:14 AM roll call
10:04:19 AM quorum present
10:05:22 AM SB 498 by Sobel
10:05:33 AM Senator Sobel presents the bill
10:07:23 AM Senator Diaz de la Portilla with a question
10:07:36 AM Senator Sobel answers
10:07:49 AM Senator Soto with a question
10:07:56 AM Senator Sobel answers
10:08:16 AM Senator Simmons answers
10:08:30 AM Brian Pitt Justice 2 Jesus speaks
10:11:17 AM Senator Gibson in debate
10:12:06 AM Senator Galvano in debate
10:12:46 AM Senator Sobel closes on bill
10:14:16 AM roll call
10:14:23 AM SB 498 passes
10:15:01 AM SB 540 by Senator Hukill
10:15:11 AM Senator Hukill explains the bill
10:16:33 AM Amendment 736432 by Senator Gibson
10:16:49 AM Senator Hukill explains amendment
10:17:38 AM Amendment adopted
10:17:56 AM Back on the bill as amended
10:18:13 AM Kenneth Pratt Senior VP of Governmental Affairs waives in support
10:18:24 AM Martha Edenfield Attorney waives in support
10:18:56 AM Senator Hukill waives close on the bill
10:19:04 AM roll call for SB 540
10:19:12 AM SB 540 passes
10:19:47 AM SB 624 by Senator Hays
10:19:59 AM Senator Hays explains the bill
10:20:58 AM Brian Pitts waives in support
10:21:10 AM Senator Hays waives close
10:21:32 AM roll call
10:21:34 AM SB 624 passes
10:22:11 AM SB 7030
10:22:37 AM JJ Piskadlo for Senator Ring presents the bill
10:22:38 AM JJ explains the bill
10:23:53 AM JJ waives close on the bill
10:24:08 AM roll call on SB 7030
10:24:17 AM SB 7030 passes
10:24:44 AM SB 308 by Senator Benacquisto
10:25:07 AM Senator Benacquisto explains the bill
10:26:06 AM Rocco Salvatori, Firefighter waives in support
10:26:17 AM Ray Almodovar, Captain, Volusia County Sheriff's Office waives in support
10:26:27 AM Brian Pitts waives in support
10:26:38 AM Senator Benacquisto waives close on the bill
10:26:49 AM roll call on SB 308
10:27:10 AM SB 308 passes
10:27:44 AM SB 458 by Senator Richter
10:27:56 AM Senator Richter explains the bill
10:28:32 AM Senator Latvala with a question
10:28:49 AM Senator Richter answers
10:29:10 AM G. C. Murray, Deputy General Counsel waives in support
10:29:23 AM Brian Pitts waives in support
10:29:33 AM Diane Carr waives in support
10:29:52 AM Senator Richter waives close
10:30:06 AM roll call
10:30:23 AM SB 458 passes
10:31:03 AM Senator Soto takes the chair
10:31:26 AM SB 1030
10:31:38 AM Senator Simmons explains SB 1030
10:32:19 AM Brian Pitts Justice 2 Jesus speaks
10:35:36 AM Senator Simmons waives close
10:35:44 AM roll call on SB 1030
10:35:51 AM SB 1030 passes
10:36:22 AM Senator Simmons take the chair
10:36:35 AM Taking up Proposed revision of Rule 14.1
10:37:16 AM Senator Simmons explains the proposal

10:39:15 AM Leader Joyner speaks
10:39:28 AM Senator Simmons speaks
10:40:00 AM Senator Gibson in debate
10:41:12 AM Senator Joyner moves to change rule 14.1
10:41:31 AM roll call
10:41:35 AM Proposed rule change passes
10:44:19 AM Senator Negrón moves the meeting adjourn



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Education, *Chair*
Appropriations
Education Pre-K - 12
Ethics and Elections
Health Policy
Higher Education
Rules

SENATOR DON GAETZ
1st District

January 14, 2015

RECEIVED JAN 14 2016
1/14/16
OK
[Signature]

The Honorable David Simmons
Chairman
Senate Committee on Rules
401 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Simmons,

I respectfully request to be excused from the Senate Committee on Rules today,
Thursday, January 14, 2016.

Thank you for your consideration.

Respectfully,

Senator Don Gaetz

cc: Mr. John Phelps

REPLY TO:

- 4300 Legendary Drive, Suite 230, Destin, FL 32541 (850) 897-5747 FAX: (888) 263-2259
- 420 Senate Office Building, 404 South Monroe Street, Tallahassee, FL 32399-1100 (850) 487-5001
- 5230 West U.S. Highway 98, Administration Building, 2nd Floor, Panama City, FL 32401 (850) 747-5856

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Appropriations Subcommittee on General Government
Banking and Insurance
Reapportionment
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE
24th District

January 14, 2016

The Honorable David Simmons
Senate Committee on Rules, Chair
400 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

1/14/16
OK
[Signature]

Dear Chairman Simmons,

I respectfully request to be excused from today's Senate Rules Committee meeting due to a previously scheduled event.

Thank you for your consideration.

Sincerely,

Senator Tom Lee
District 24

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore