

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BUDGET
Senator Alexander, Chair
Senator Negron, Vice Chair

MEETING DATE: Wednesday, February 1, 2012
TIME: 9:00 —10:00 a.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Alexander, Chair; Senator Negron, Vice Chair; Senators Altman, Benacquisto, Bogdanoff, Fasano, Flores, Gaetz, Hays, Joyner, Lynn, Margolis, Montford, Rich, Richter, Simmons, Siplin, Sobel, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed committee bill:			
1	SPB 7204	Balanced Federal Budget; Urging Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States to achieve and maintain a balanced federal budget, etc.	Submitted as Committee Bill
BILLS FOR EXPEDITED CONSIDERATION:			
2	CS/SB 116 Rules Subcommittee on Ethics and Elections / Wise (Identical CS/H 75)	Freeholder Voting; Permitting the submission of a written declaration to establish that an elector is a freeholder and qualified to vote in an election or referendum limited to freeholders who are qualified to vote, etc. EE 10/05/2011 Fav/CS RC 11/16/2011 Favorable BTA 01/19/2012 Favorable BC 02/01/2012 Favorable	Favorable Yeas 19 Nays 0
3	SB 140 Bennett (Identical H 4019, Compare H 5505)	Repeal of a Workers' Compensation Reporting Requirement; Repealing provision relating to the duty of the Department of Financial Services to make an annual report on the administration of ch. 440, F.S., the Workers' Compensation Law, to specified officials, etc. BI 10/04/2011 Favorable BGA 12/08/2011 Favorable BC 02/01/2012 Favorable	Favorable Yeas 19 Nays 0

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4	CS/SB 186 Judiciary / Ring (Similar CS/H 183)	Misdemeanor Pretrial Substance Abuse Programs; Providing that a person who is charged with a nonviolent, nontraffic-related misdemeanor and identified as having a substance abuse problem or who is charged with certain other designated misdemeanor offenses, and who has not previously been convicted of a felony, may qualify for participation in a misdemeanor pretrial substance abuse program, etc. CJ 10/04/2011 Fav/1 Amendment JU 10/18/2011 Fav/CS BJA 11/15/2011 Favorable BC 01/25/2012 Not Considered BC 02/01/2012 Favorable	Favorable Yeas 19 Nays 0
5	CS/SB 226 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations / Margolis (Compare CS/H 27)	Disabled Parking Permits; Providing for a parking enforcement specialist or agency to validate compliance for the disposition of a citation issued for illegally parking in a space provided for people who have disabilities; revising requirements for renewal or replacement of a disabled parking permit; prohibiting applying for a new disabled parking permit for a certain period of time upon a second finding of guilt or plea of nolo contendere to unlawful use of such permit; requiring the Department of Highway Safety and Motor Vehicles to audit disabled parking permit holders, verify certain information, and invalidate the permit of a deceased permit holder; directing the department to implement a means for reporting abuse of disabled parking permits; providing for the department to conduct a public awareness campaign, etc. TR 11/01/2011 Favorable BTA 12/08/2011 Fav/CS BC 01/25/2012 Not Considered BC 02/01/2012 Favorable	Favorable Yeas 19 Nays 0
6	SB 388 Latvala (Identical H 393, Compare CS/H 1223, CS/S 1122)	Recreational Vehicle Dealers; Authorizing recreational vehicle dealers to obtain certificates of title for recreational vehicles; providing limitations and requirements, etc. TR 11/01/2011 Favorable BTA 01/19/2012 Favorable BC 02/01/2012 Favorable	Favorable Yeas 19 Nays 0

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7	CS/SB 390 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations / Bogdanoff (Compare H 797, H 4017, S 334, CS/S 1122)	Bicycle Regulations; Clarifying provisions relating to when a bicycle operator must ride in a bicycle lane or along the curb or edge of the roadway; removing a requirement to keep one hand on the handlebars while operating a bicycle; providing for enforcement of requirements for bicycle lighting equipment; providing penalties for violations, etc. TR 11/01/2011 Favorable BTA 01/12/2012 Fav/CS BC 02/01/2012 Favorable	Favorable Yeas 20 Nays 0
8	SB 436 Storms (Identical H 215, Compare H 257, CS/H 437, S 296, CS/S 964)	Video Voyeurism; Revising the definition of the term "place and time when a person has a reasonable expectation of privacy" to include the interior of a residential dwelling; increasing the classification of specified video voyeurism offenses, etc. CJ 12/07/2011 Favorable BJA 01/19/2012 Favorable BC 02/01/2012 Favorable	Favorable Yeas 20 Nays 0
9	SB 532 Altman (Identical H 347)	College Credit for Military Training and Education Courses; Requiring the Board of Governors of the State University System and the State Board of Education to adopt regulations and rules, respectively, which enable United States Armed Forces servicemembers to earn college credit for college-level training and education acquired in the military, etc. MS 12/05/2011 Favorable HE 01/12/2012 Favorable BHI 01/25/2012 Favorable BC 02/01/2012 Favorable	Favorable Yeas 20 Nays 0
10	SB 638 Hays (Identical H 4073)	Florida Motor Vehicle Theft Prevention Authority; Repealing provisions relating to the Florida Motor Vehicle Theft Prevention Authority; repealing provisions relating to a short title, purpose, definitions, establishment, compensation of members, personnel, powers and duties, and expenditures, etc. GO 12/05/2011 Favorable CJ 01/12/2012 Favorable BTA 01/25/2012 Favorable BC 02/01/2012 Favorable	Favorable Yeas 20 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 792 Gaetz (Similar CS/H 613)	Financial Institutions; Requiring a financial institution that is chartered in this state and that maintains certain accounts with a foreign financial institution to establish due diligence policies, procedures, and controls reasonably designed to detect whether the foreign financial institution engages in certain activities facilitating the development of weapons of mass destruction by the Government of Iran, provides support for certain foreign terrorist organizations, or participates in other related activities; requiring the Office of Financial Regulation to adopt rules establishing minimum standards for the due diligence policies, procedures, and controls; requiring the Office of the Chief Financial Officer to make the annual report available to the public on its website; authorizing the Office of Financial Regulation to impose a civil penalty against a financial institution that fails to make the annual certification required by the act, etc. BI 12/07/2011 Favorable BGA 01/12/2012 Favorable BC 02/01/2012 Favorable	Favorable Yeas 20 Nays 0
12	CS/SB 800 Budget Subcommittee on Finance and Tax / Negron (Similar H 1319)	County Boundary Lines; Incorporating a portion of St. Lucie County into Martin County; revising the legal description of Martin County; revising the legal description of St. Lucie County, to conform; transferring certain roads and associated rights-of-way; requiring that St. Lucie County and Martin County enter into an interlocal agreement that provides for a feasible plan for the transfer of county services, buildings, infrastructure, waterways, and employees and for the transfer of income generated from the area transferred by a time certain; limiting the annual loss of revenue from the transferred land, etc. CA 01/12/2012 Favorable BFT 01/24/2012 Fav/CS BC 02/01/2012 Favorable	Favorable Yeas 20 Nays 0
13	Presentation on Consolidated Government Business Processes Concept		Presented
14	Status Report from the Department of Financial Services on Debt Collection		Not Considered
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 Budget Committee

BILL: SPB 7204

INTRODUCER: For consideration by the Budget Committee

SUBJECT: Balanced Federal Budget

DATE: January 28, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Diez-Arguelles</u>	<u>Rhodes</u>	_____	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Through this concurrent resolution, the Legislature calls upon Congress to convene a constitutional convention under Article V of the U.S. Constitution for the sole purpose of proposing amendments to the Constitution to achieve and maintain a balanced federal budget. The concurrent resolution specifies that it is revoked and withdrawn, nullified, and superseded if it is used for the purpose of calling or conducting a convention to amend the U.S. Constitution for any other purpose.

This bill does not amend, create, or repeal sections of the Florida Statutes.

II. Present Situation:¹

Conventions as Method of Proposing Amendments to U.S. Constitution

The Constitution of the United States prescribes two methods for proposing amendments to the document. Under the first method, Congress – upon the agreement of two-thirds of both houses – may propose an amendment itself. Under the second, Congress – upon application from legislatures in two-thirds of the states – “shall call a Convention for proposing Amendments.”²

¹ The Present Situation section of this analysis relies in large part on the Bill Analysis and Fiscal Impact Statement prepared by the staff of the Senate Judiciary Committee for Senate Concurrent Resolution 10 (Reg. Sess. 2010).

² U.S. CONST. art. V. By comparison, the Florida Constitution provides the following methods for proposing amendments to the document: by joint resolution agreed to by three-fifths of the membership of each house of the Legislature (FLA. CONST. art. XI, s. 1); by constitutional revision commission (FLA. CONST. art. XI, s. 2); by citizen initiative (FLA. CONST. art. XI, s. 3); by a constitutional convention to consider revision to the entire document called by the people of the state (FLA. CONST. art. XI, s. 4); and by a taxation and budget reform commission (FLA. CONST. art. XI, s. 6). Regardless of the method by which

Under either method, Congress is authorized to specify whether the amendment must be ratified by the legislatures of three-fourths of the states or by conventions in three-fourths of the states.³

Legal scholarship notes that the convention method for proposing amendments to the U.S. Constitution emerged as a compromise among “Founding Fathers” who disagreed on the respective roles of Congress and the states in proposing amendments to the document. Although some participants in the Philadelphia Convention of 1787 argued that Congress’ concurrence should not be required to amend the Constitution, others argued that Congress should have the power to propose amendments, and the states’ role should be restricted to ratification.⁴ The language ultimately agreed upon, and which became article V of the U.S. Constitution, states:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Despite the fact that over time states have made at least 400 convention applications to Congress on a variety of topics,⁵ the constitutional convention method of proposing amendments has never been fully employed and, as authors have noted, occupies some unknown legal territory. Some of the legal questions surrounding the method relate to whether Congress has discretion to call a convention once 34 states make application; whether the scope of a convention may be limited to certain subject matters and by whom; and how applications from the states are to be tallied – “separately by subject matter or cumulatively, regardless of their subject matter.”⁶

Over time, some states have rescinded applications, in part amid concerns that the scope of a constitutional convention could extend to subjects beyond the subject proposed in a given state’s application. For example, in 2003 the Arizona Legislature adopted a concurrent resolution that “repeals, rescinds, cancels, renders null and void and supersedes any and all existing applications to the Congress ... for a constitutional convention ... for any purpose, whether limited or

an amendment to the Florida Constitution is proposed, the amendment must be approved by at least 60 percent of the electors voting on the measure (FLA. CONST. art. XI, s. 5(e)).

³ U.S. CONST. art. V.

⁴ James Kenneth Rogers, *The Other Way to Amend the Constitution: The Article V Constitutional Convention Amendment Process*, 30 HARV. J.L. & PUB. POL’Y 1005, 1006-07 (2007).

⁵ *Id.* at 1005. The author cites this figure as of 1993.

⁶ *Id.*

general.”⁷ Article V of the U.S. Constitution is silent on the legal effect of a state’s decision to rescind a previously submitted application.

Calls for a Constitutional Convention on a Balanced Federal Budget

One of the country’s most significant movements toward activation of the constitutional convention method of proposing an amendment to the U.S. Constitution occurred starting in the mid-1970s, when eventually 32 states adopted measures, of varying forms, urging Congress to convene a constitutional convention to address federal budget deficits.⁸ Depending upon the manner of tallying applications, that count was two short of the 34 state applications necessary under article V of the U.S. Constitution.

Florida’s 1976 Convention Application

Florida participated in that movement, when in 1976 the Legislature adopted Senate Memorial 234. Through that memorial, the Legislature made “application to the Congress of the United States ... to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto.”⁹

That same year, the Legislature adopted House Memorial 2801, through which the Legislature also made application to Congress for a convention to consider an amendment to the U.S. Constitution requiring a balanced federal budget. Unlike Senate Memorial 234, House Memorial 2801 prescribed the precise language of the proposed constitutional amendment. Among other provisions, the proposed amendment stated:

[T]he Congress shall make no appropriation for any fiscal year if the resulting total of appropriations for such fiscal year would exceed the total revenues of the United States for such fiscal year. ... There shall be no increase in the national debt, and the existing debt, as it exists on the date which this amendment is ratified, shall be repaid during the one hundred-year period following the date of such ratification.

The proposed constitutional language also authorized Congress to suspend the requirement for a balanced budget in times of national emergency, as identified by a concurrent resolution of three-fourths of the membership of the U.S. Senate and the U.S. House of Representatives.

House Memorial 2801 further specified that “the purview of any convention called by the Congress pursuant to this resolution [shall] be strictly limited to the consideration” of a balanced-budget amendment. In addition, the Legislature resolved that the 1976 application for a constitutional convention “constitutes a continuing application ... until such time as two-thirds of

⁷ Senate Concurrent Resolution 1022, State of Arizona, Senate, Forty-sixth Legislature (First Reg. Sess. 2003) (copy on file with the Florida Senate Committee on Judiciary). The concurrent resolution notes that “certain persons or states have called for a constitutional convention on issues that may be directly in opposition to the will of the people of this state.” *Id.*

⁸ E. Donald Elliott, *Constitutional Conventions and the Deficit*, 1985 DUKE L.J. 1077, 1078 (1985).

⁹ Senate Memorial 234 (Reg. Sess. 1976).

the Legislatures of the several states have made similar application, and the convention herein applied for is convened.”¹⁰

Florida’s 1988 Request to Congress

In 1988, the Legislature adopted a measure urging congressional action related to the federal budget deficit. Adopted by both chambers, Senate Memorial 302, rather than making application for a constitutional convention, urged Congress to use its own power to propose an amendment to the U.S. Constitution requiring the federal budget to be in balance except under specified emergencies.

The memorial specified that it superseded “all previous memorials applying to the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States to require a balanced federal budget,” including the two memorials passed in 1976. The 1988 memorial further specified that the previous memorials were “revoked and withdrawn.”¹¹

Florida’s 2010 Application to Congress

In 2010, the Legislature again adopted a measure making application to Congress for a constitutional convention. Senate Concurrent Resolution 10 asked Congress to call a convention for the sole purpose of proposing amendments to the Constitution of the United States “to achieve and maintain a balance budget,” and “to control the ability of the Congress and the various federal executive agencies to require states to expend funds.” Like previous requests to Congress, the concurrent resolution stated that it superseded all previous memorials applying to Congress to call a constitutional convention.¹²

State Balanced-Budget Requirements

Although it noted that there is not agreement on what is meant by a “balanced budget,” the National Conference of State Legislatures reported in 2004 that 49 states “have at least a limited statutory or constitutional requirement of a balanced budget.”¹³ Florida’s requirement is prescribed in article VII, section 1 of the Florida Constitution. The constitution requires that “[p]rovision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.”¹⁴ Among other elements, the implementing statute, s. 216.221, F.S., provides that all appropriations shall be maximum appropriations, based on the collection of sufficient revenue. In addition, “[i]t is the duty of the Governor, as chief budget officer, to ensure that revenues collected will be sufficient to meet the appropriations and that no deficit occurs in any state fund.”¹⁵

¹⁰ House Memorial 2801 (Reg. Sess. 1976).

¹¹ Senate Memorial 302 (Reg. Sess. 1988).

¹² Senate Concurrent Resolution 10 (Reg. Sess. 2010).

¹³ Nat’l Conference of State Legislatures, *State Balanced Budget Requirements: Provisions and Practice* (updated 2004), <http://www.ncsl.org/IssuesResearch/BudgetTax/StateBalancedBudgetRequirementsProvisionsand/tabid/12651/Default.aspx> (last visited Mar. 7, 2010).

¹⁴ FLA. CONST. art VII, s. 1(d).

¹⁵ Section 216.221(1), F.S.

Section 215.98, F.S., provides that the “Legislature shall not authorize the issuance of additional state tax-supported debt if such authorization would cause the designated benchmark debt ratio of debt service to revenues available to pay debt service to exceed 7 percent unless” it finds that the additional debt is necessary to address a critical state emergency.¹⁶

Federal Budget Deficit and National Debt

The Congressional Budget Office (CBO) estimated that the federal budget deficit would be approximately \$1.5 trillion for fiscal year 2011, assuming current law and policies remained unchanged.¹⁷ According to the CBO:

The resulting federal budget deficit of nearly \$1.5 trillion projected for this year will equal 9.8 percent of GDP, a share that is nearly 1 percentage point higher than the shortfall recorded last year and almost equal to the deficit posted in 2009, which at 10.0 percent of GDP was the highest in nearly 65 years.¹⁸

The CBO projects deficits ranging from \$600 to \$800 billion per year over the 2012-2021 period.¹⁹

In turn, the deficits will cause federal debt held by the public to increase significantly. As of January, 2012, the federal government’s Total Public Debt Outstanding is estimated to be \$15.2 trillion. Of this amount, \$10.5 trillion is debt held by the public and \$4.7 trillion is debt held by government trust funds.²⁰ For comparison purposes, on January 3, 2002, ten years ago, Total Public Debt Outstanding was estimated to be \$5.9 trillion.²¹ Finally, during 2011 Total Public Debt Outstanding grew by almost \$1.2 trillion.²²

III. Effect of Proposed Changes:

Through this concurrent resolution, the Legislature makes application to the Congress of the United States to call a convention under article V of the U.S. Constitution for the sole purpose of proposing an amendment to the Constitution to achieve and maintain a balanced budget.

The concurrent resolution does not contain specific constitutional language. However, it proposes achieving and maintaining a balanced federal budget by, among other things:

¹⁶ Section 215.98(1), F.S.

¹⁷ Congressional Budget Office, Congress of the United States, *The Budget and Economic Outlook: Fiscal Years 2011 to 2021, Summary* (Jan. 2011), <http://www.cbo.gov/ftpdocs/120xx/doc12039/SummaryforWeb.pdf>

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ TreasuryDirect, *The Debt to the Penny and Who Holds It*, <http://www.treasurydirect.gov/NP/BPDLogin?application=np> (last visited January 29, 2012). TreasuryDirect is a financial services website through which a person may purchase and redeem securities directly from the U.S. Department of the Treasury in paperless electronic form. TreasuryDirect is a service of the U.S. Department of the Treasury Bureau of the Public Debt. See TreasuryDirect, *About TreasuryDirect*, <http://www.treasurydirect.gov/about.htm> (last visited January 29, 2012).

²¹ *Id.*

²² *Id.*

- Requiring that total outlays not exceed total receipts for any fiscal year;
- Requiring the setting of a fiscal year total outlay limit;
- Prohibiting increases in taxes or other revenue sources;
- Providing that, for reasons other than war or military conflict, the limits of this amendment may be waived by law for any fiscal year if approved by at least two-thirds of both houses of Congress;
- Allowing for provisions of the amendment to take effect within specified time periods;
- Providing for the waiver of the provisions of the amendment for any fiscal year in which a declaration of war is in effect or the United States is engaged in military conflict that causes an imminent and serious military threat to national security; and
- Allowing for congressional enforcement.

The concurrent resolution specifies that it supersedes all previous memorials and concurrent resolutions applying to Congress for a constitutional convention for the purpose of proposing a balanced budget amendment to the U.S. Constitution, including the memorials and concurrent resolutions adopted in 1976, 1988, and 2010. The concurrent resolution provides that the previous memorials and resolutions are “revoked and withdrawn, nullified, and superseded to the same effect as if they had never been passed.”

In addition, the concurrent resolution specifies that it is similarly revoked and withdrawn, nullified, and superseded if it is used for the purpose of calling or conducting a convention to amend the U.S. Constitution for any purpose other than requiring a balanced federal budget. Under the Senate rules, a concurrent resolution must be read twice, passed by both houses of the Legislature, and signed by the presiding officers.²³

Other Potential Implications:

Unlike Florida, which has a constitutional requirement for raising sufficient revenue to defray the expenses of the state in each fiscal year, the U.S. Constitution does not contain a requirement for a balanced federal budget. Amending the U.S. Constitution to require a balanced federal budget would represent a fundamental change in federal fiscal policy and practice and would undoubtedly affect decisions ranging from the nature and quantity of government expenditures to the sources and level of revenue generation. The potential implications for government at all levels and for private citizens and businesses are difficult to quantify but likely to be significant.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²³ The Florida Senate, *Manual for Drafting Legislation*, 129 (6th ed. 2009); see also Rule 4.13, *Rules and Manual of the Senate of the State of Florida*, Senator Mike Haridopolos, President, 2010-2012.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This concurrent resolution makes an application to Congress under article V of the U.S. Constitution for a convention to propose amendments to the Constitution requiring a balanced federal budget. See the “Present Situation” section of this bill analysis for a discussion of the convention as a method of proposing amendments to the Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The concurrent resolution itself does not directly affect the private sector fiscally. However, to the extent applications from the states to Congress for a constitutional convention ultimately result in amendments to the U.S. Constitution requiring a balanced federal budget, the private sector may be affected by budgetary and economic changes stemming from the constitutional changes.

C. Government Sector Impact:

The concurrent resolution itself does not directly affect state government or local governments fiscally. However, to the extent applications from the states to Congress for a constitutional convention ultimately result in amendments to the U.S. Constitution requiring a balanced federal budget, the government sector may be affected by budgetary and economic changes stemming from the constitutional changes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.

FOR CONSIDERATION By the Committee on Budget

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Senate Concurrent Resolution

A concurrent resolution urging Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States to achieve and maintain a balanced federal budget.

WHEREAS, fiscal discipline and economic integrity have been core principles of American governance, and

WHEREAS, the American people have historically demanded the same prudent, responsible, and intellectually honest financial behavior from their elected representatives as ultimately compels individual behavior, and

WHEREAS, it is the firm conviction of the Legislature of the State of Florida that it is wrong to fund the prosperity of the present generation by robbing future Americans of their own, and

WHEREAS, mortgaging the birthright of our children and grandchildren is a dangerous departure from traditional American values which threatens to permanently undermine the strength of our nation, and

WHEREAS, during 2011, the national debt grew by almost \$1.2 trillion, and as of January 3, 2012, the total public debt outstanding for the United States was \$15,226,217,488,652.33, and

WHEREAS, Congress has voted to raise the debt limit 11 times since 2001, and

WHEREAS, our debt is owed increasingly to the governments of foreign nations, not to the citizens of the United States; therefore, our wealth is transferred to others and will not be

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available to supply the means for America's future growth and prosperity, and

WHEREAS, this generation will bequeath to its children one of the world's most indebted industrial democracies, and

WHEREAS, high federal deficits cause increasingly high payments for debt interest in the future, make future borrowing more costly, reduce investment activity, and thus reduce the size of the future economy, and

WHEREAS, the people of Florida recognized the wisdom of fiscal discipline and enshrined in its State Constitution the requirement for a balanced budget to place a prudent limit on the tendencies of government, and

WHEREAS, the Florida Legislature has made fiscally responsible decisions, maintaining a balanced budget and saving the citizens of this state from crippling deficits, massive debt burdens, and bankruptcy, and

WHEREAS, we the Legislature of the State of Florida call for the Constitution of the United States to be amended to require the Federal Government to operate with fiscal responsibility, common sense, and within the revenues granted to it by the people, and

WHEREAS, the Federal Government has for too long relied on revenue increases and borrowing against our future, rather than on prudent spending decisions within the limits of current revenues, and

WHEREAS, lasting resolution of this nation's budget deficit will be achieved only by addressing the spending habits of our Federal Government, not by increasing the tax burden under which our citizens already labor, and

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59 WHEREAS, Article V of the Constitution of the United States
60 makes provision for amending the Constitution on the application
61 of the legislatures of two-thirds of the several states, calling
62 a convention for proposing amendments that shall be valid to all
63 intents and purposes if ratified by the legislatures of three-
64 fourths of the several states, or by conventions in three-
65 fourths thereof, as the one or the other mode of ratification
66 may be proposed by Congress, NOW, THEREFORE,

67

68 Be It Resolved by the Senate of the State of Florida, the House
69 of Representatives Concurring:

70

71 That the Legislature of the State of Florida, with all due
72 respect and great reluctance, does hereby make application to
73 the Congress of the United States pursuant to Article V of the
74 Constitution of the United States to call a convention for the
75 sole purpose of proposing an amendment to the Constitution of
76 the United States to achieve and maintain a balanced budget by,
77 among other things:

78 (1) Requiring that total outlays not exceed total receipts
79 for any fiscal year;

80 (2) Requiring the setting of a fiscal year total outlay
81 limit;

82 (3) Prohibiting increases in taxes or other revenue
83 sources;

84 (4) Providing that, for reasons other than war or military
85 conflict, the limits of this amendment may be waived by law for
86 any fiscal year if approved by at least two-thirds of both
87 houses of Congress;

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88 (5) Allowing for provisions of the amendment to take effect
89 within specified time periods;

90 (6) Providing for the waiver of the provisions of the
91 amendment for any fiscal year in which a declaration of war is
92 in effect or the United States is engaged in military conflict
93 that causes an imminent and serious military threat to national
94 security; and

95 (7) Allowing for congressional enforcement.

96 BE IT FURTHER RESOLVED that this concurrent resolution
97 supersedes all previous memorials and concurrent resolutions
98 applying to the Congress of the United States to call a
99 convention for the purpose of proposing a balanced budget
100 amendment to the Constitution of the United States, including
101 Senate Memorial 234 and House Memorial 2801, both passed in
102 1976, and were superseded, revoked, and withdrawn in 1988 by
103 Senate Memorial 302, and Senate Concurrent Resolution 10, passed
104 in 2010, and that such previous memorials and resolutions are
105 hereby revoked and withdrawn, nullified, and superseded to the
106 same effect as if they had never been passed.

107 BE IT FURTHER RESOLVED that this concurrent resolution is
108 revoked and withdrawn, nullified, and superseded to the same
109 effect as if it had never been passed, and retroactive to the
110 date of passage, if it is used for the purpose of calling a
111 convention or used in support of conducting a convention to
112 amend the Constitution of the United States for any purpose
113 other than requiring a balanced federal budget.

114 BE IT FURTHER RESOLVED that a copy of this concurrent
115 resolution be dispatched to the President of the United States
116 Senate, to the Speaker of the United States House of

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117 Representatives, to each member of the Florida delegation to the
118 United States Congress, and to the presiding officers of each
119 house of the several state legislatures.

- Issuance of local bonds to finance or refinance capital projects;¹
- Freeholders who are qualified electors residing in a county must approve the issuance of bonds;²
- General obligations bonds;³
- Bonds to build bridges over navigable streams;⁴
- Creation of a water or sewer district in unincorporated areas;⁵
- Issuance of bonds for water or sewer districts;⁶ and,
- Creation of special neighborhood improvement districts.⁷

By statute, “each registered elector who makes a sworn affidavit of ownership to the inspectors, giving either a legal description, address, or location of property in the elector’s name which is not wholly exempt from taxation shall be...considered a freeholder.”⁸ Currently, each freeholder voting in a freeholder election must submit an affidavit made before an inspector affirming that he or she is a freeholder and qualified elector residing in the county, district, or municipality in which the election or referendum is to be held.⁹ When a freeholder is voting by absentee ballot, he or she submits the same affidavit as those freeholders voting at the polls. However, the freeholder must go through the additional burden of finding a notary public to notarize his or her affidavit. If an election is limited to freeholders, a person who is not a freeholder commits a first degree misdemeanor if they vote in the freeholder election.¹⁰

Compliance with the affidavit requirement may be difficult, if not impossible, for an active duty military freeholder or other Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) freeholder. Efforts to obtain notarization can be logistically difficult, if not dangerous in some circumstances. Further, voter participation may be impacted by excessive fees charged by overseas notaries public.

III. Effect of Proposed Changes:

The bill removes the affidavit requirement in favor of requiring a freeholder to submit a written declaration as provided in s. 92.525, F.S., attesting that he or she is a freeholder, a qualified elector residing in the county, district, or municipality in which the election or referendum is to be held, and identifying his or her property. Section 92.525, F.S., authorizes verification of a document by oath or affirmation before an officer or by signing a written declaration.¹¹ The form of the written declaration is specified in s. 92.525(2), F.S., which provides:

A written declaration means the following statement: “Under penalties of perjury, I declare that I have read the foregoing [document] and that the

¹ Section 12, Article VII, Florida Constitution.

² Section 130.03, F.S.

³ Section 153.07, F.S.

⁴ Section 130.18, F.S.

⁵ Section 153.53, F.S.

⁶ Section 153.56, F.S.

⁷ Section 163.511, F.S.

⁸ Section 100.241(3), F.S.

⁹ Section 100.241(2), F.S.

¹⁰ Section 100.241(5), F.S.

¹¹ Section 92.525(1), F.S.

facts stated in it are true,” followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words “to the best of my knowledge and belief” may be added. The written declaration shall be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.

Pursuant to s. 92.525(3), F.S., a person who knowingly makes a false declaration commits perjury by false written declaration, a third degree felony.¹²

By requiring a written declaration instead of a sworn affidavit, the bill alleviates the difficulty absentee and UOCAVA voters may have in obtaining notarization because s. 92.525, F.S., does not require that a written declaration be countersigned.

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.

¹² Additionally, s. 104.011(1), F.S., provides that “any person who willfully swears or affirms falsely to any oath or affirmation...in connection with or arising out of voting or elections commits a felony of the third degree.”

VII. Related Issues:

Under section 5 of the Voting Rights Act, new statewide legislation that implements a voting change including but not limited to a change in the manner of voting, change in candidacy requirements and qualifications, change in the composition of the electorate that may vote for a candidate, or change affecting the creation or abolition of an elective office, is subject to preclearance by the U.S. Department of Justice or the federal District Court for the District of Columbia. The preclearance review is to determine if the change has a discriminatory purpose or effect that denies or abridges the right to vote on account of race, color or membership in a language minority group in a covered jurisdiction. Florida has five covered jurisdictions subject to preclearance: Collier, Hardee, Hendry, Hillsborough, and Monroe. Until precleared, the legislation is unenforceable in Florida's five covered jurisdictions.¹³

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

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

CS by Rules Subcommittee on Ethics and Elections on October 5, 2011:

The CS removes the affidavit requirement in favor of a written declaration to establish that a voter is a freeholder who is eligible to participate in a freeholder election. The CS also removes the crime of perjury by false written declaration from the bill because other applicable provisions make it a third degree felony to falsely execute a written declaration or oath.

B. Amendments:

None.

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

¹³ Quoting Department of State, *Senate Bill 116 Bill Analysis* (September 19, 2011) (On file with Transportation, Tourism and Economic Development Appropriations Subcommittee)

By the Committee on Rules Subcommittee on Ethics and Elections;
and Senator Wise

582-00562-12

2012116c1

1 A bill to be entitled
2 An act relating to freeholder voting; amending s.
3 100.241, F.S.; permitting the submission of a written
4 declaration to establish that an elector is a
5 freeholder and qualified to vote in an election or
6 referendum limited to freeholders who are qualified to
7 vote; providing an effective date.

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

10
11 Section 1. Section 100.241, Florida Statutes, is amended to
12 read:

13 100.241 Freeholder voting; election; penalties for
14 ineligible persons who vote as freeholders.-

15 (1) In any election or referendum in which only electors
16 who are freeholders are qualified to vote, the regular
17 registration books covering the precincts located within the
18 geographical area in which the election or referendum is to be
19 held shall be used.

20 (2) Qualification and registration of electors
21 participating in a freeholder ~~such an~~ election or referendum
22 subject to this section shall be the same as prescribed for
23 voting in other elections under this code, and, in addition,
24 each such elector shall submit a written declaration, verified
25 pursuant to s. 92.525, affirming proof by affidavit made before
26 ~~an inspector~~ that the elector is a freeholder who is a qualified
27 elector residing in the county, district, or municipality in
28 which the election or referendum is to be held.

29 (3) Each registered elector who submits the written

582-00562-12

2012116c1

30 ~~declaration~~ makes a sworn affidavit of ownership to the
31 ~~inspectors,~~ giving either a legal description, address, or
32 location of property in the elector's name which is not wholly
33 exempt from taxation ~~is shall be~~ entitled to vote in the
34 election or referendum and ~~is shall be~~ considered a freeholder.

35 (4) The actual costs of conducting a freeholder ~~such~~
36 ~~freeholders'~~ election or referendum subject to this section
37 shall be paid by the county, district, or municipality requiring
38 the election or referendum ~~same to be held~~.

39 (5) A ~~It is unlawful for any person~~ may not ~~to~~ vote in any
40 county, district, or other election or referendum which is
41 limited to a vote of the electors who are freeholders, unless
42 the ~~such~~ person is a freeholder and a qualified elector. A ~~Any~~
43 person who violates ~~the provisions of~~ this subsection commits ~~is~~
44 guilty of a misdemeanor of the first degree, punishable as
45 provided in s. 775.082 or s. 775.083.

46 Section 2. This act shall take effect July 1, 2012.



The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: November 17, 2011

I respectfully request that **Senate Bill # 116**, relating to Freeholder Voting, be placed on the:

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

A handwritten signature in cursive script that reads "Stephen R. Wise".

Senator Stephen R. Wise
Florida Senate, District 5



The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: January 20, 2012

I respectfully request that **Senate Bill # 116 and 210**, relating to Freeholder Voting (SB 116) and Costs of Prosecution (SB 210), be placed on the:

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

A handwritten signature in cursive script that reads "Stephen R. Wise".

Senator Stephen R. Wise
Florida Senate, District 5

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 Budget Committee

BILL: SB 140

INTRODUCER: Senator Bennett

SUBJECT: Repeal of a Workers' Compensation Reporting Requirement

DATE: February 2, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Burgess	BI	Favorable
2.	Betta	DeLoach	BGA	Favorable
3.	Betta	Rhodes	BC	Favorable
4.				
5.				
6.				

I. Summary:

The bill repeals s. 440.59, F.S., which requires the Department of Financial Services (DFS) to compile an annual written report on the administration of Florida's Workers' Compensation Law¹ and submit copies of the annual report to the Legislature and the Governor. The Division of Workers' Compensation within the DFS is responsible for preparing this report. Information contained in the annual report is available at the DFS website.

This bill repeals section 440.59, Florida Statutes.

II. Present Situation:

Pursuant to s. 440.015, F.S., the Department of Financial Services, the Office of Insurance Regulation, the Department of Education, and the Division of Administrative Hearings administer various provisions of the Workers' Compensation Law. The Division of Workers' Compensation within the Department of Financial Services is organized into the following program or functional units: Employee Assistance, Compliance, Monitoring and Audit, Data Quality and Collection, Office of the Special Disability Trust Fund, Office of Assessments, and the Office of Medical Services.

Section 440.59, F.S., requires the DFS to prepare an annual report of the administration of ch. 440, F.S., for the preceding calendar year, including a detailed statement of the receipts of and expenditures from the Workers' Compensation Administration Trust Fund and a statement of the causes of the accidents leading to the injuries for which the awards were made. On or

¹ Chapter 440, F.S.

before September 15 of each year, the DFS is required to submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation.

The *2011 Annual Report of the Florida Division of Workers' Compensation* contains narrative, charts, and graphs depicting the accomplishments and activities of the division. In addition, the report includes information regarding claims, the nature, cause, and body location of workplace injuries, and medical data.

The Division of Workers' Compensation maintains a website that provides data, forms, publications, and other information to assist injured workers, employers, carriers, health care providers, and other interested parties.² Information concerning the division's program areas and claims data is also available at the website.

The expenses associated with the administration of ch. 440, F.S., are funded primarily by assessments on the net premiums of workers' compensation carriers and self-insurers pursuant to s. 440.51, F.S.

III. Effect of Proposed Changes:

Section 1 repeals s. 440.59, F.S., which would eliminate the workers' compensation annual report of the DFS.

Section 2 provides that this act will take effect July 1, 2012.

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.

² The website can be accessed at <http://www.myfloridacfo.com/wc/index.htm>. (Last visited on September 21, 2011.)

B. Private Sector Impact:

Insignificant.

C. Government Sector Impact:

The Department of Financial Services has indicated that the elimination of this written report would result in an annual savings of \$291 in printing costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

By Senator Bennett

21-00181-12

2012140__

1 A bill to be entitled
2 An act relating to repeal of a workers' compensation
3 reporting requirement; repealing s. 440.59, F.S.,
4 relating to the duty of the Department of Financial
5 Services to make an annual report on the
6 administration of ch. 440, F.S., the Workers'
7 Compensation Law, to specified officials; providing an
8 effective date.

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

11
12 Section 1. Section 440.59, Florida Statutes, is repealed.
13 Section 2. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2012

Meeting Date

Topic WC REPORTERS

Bill Number 140
(if applicable)

Name GAIL MARIE PERRY

Amendment Barcode _____
(if applicable)

Job Title CHAIR

Address PO BOX 1766

Phone 954 830 4053

Street

POMPANO BCH FL 33061

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing CWA Council of Fla

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 Budget Committee

BILL: CS/SB 186

INTRODUCER: Judiciary Committee and Senators Ring and Bogdanoff

SUBJECT: Misdemeanor Pretrial Substance Abuse Programs

DATE: February 2, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Fav/1 amendment
2.	<u>Maclure</u>	<u>Maclure</u>	<u>JU</u>	Fav/CS
3.	<u>Sneed</u>	<u>Sadberry</u>	<u>BJA</u>	Favorable
4.	<u>Sneed</u>	<u>Rhodes</u>	<u>BC</u>	Favorable
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill expands the pool of people who are eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program. It does so by making the following changes to current law:

- Removing the requirement that a person not have previously been admitted to a pretrial program in order to participate in a misdemeanor pretrial substance abuse education and treatment intervention program.
- Eliminating the current restriction that only a person charged with misdemeanor drug or paraphernalia possession under ch. 893, F.S., may participate in a program. The bill retains that offense as an eligible category for participation, but it also adds that a person may participate if he or she is charged with a misdemeanor for:
 - A nonviolent, nontraffic-related offense and it is shown that the person has a substance abuse problem;
 - Prostitution;
 - Underage possession of alcohol; or
 - Possession of certain controlled substances without a valid prescription.

This bill may have a positive fiscal impact on local governments since persons who successfully complete the pretrial intervention programs have their criminal charges dismissed and are not sentenced to jail. However, some counties may need to expend additional funds to expand their programs if it results in a significant increase in the number of participants.

This bill substantially amends section 948.16, Florida Statutes.

It has an effective date of July 1, 2012.

II. Present Situation:

Misdemeanor Pretrial Substance Abuse Education and Treatment Intervention

Misdemeanor possession of controlled substances under ch. 893, F.S., is the possession of 20 or fewer grams of cannabis.¹ Possession of drug paraphernalia for the purposes set forth in s. 893.147, F.S., is also a misdemeanor offense. The specified purposes include such things as possessing the paraphernalia in order to harvest or manufacture a controlled substance.²

Section 948.16, F.S., specifies that a person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S., and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program, for a period based on the program requirements and the treatment plan for the offender.

Admission may be based upon motion of either party or the court except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into the pretrial intervention program.³

Participants in the program are subject to a coordinated strategy developed by a drug court team under s. 397.334(4), F.S., which may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court.⁴

At the end of the pretrial intervention period, the court must:

- Consider the recommendation of the treatment program;
- Consider the recommendation of the state attorney as to disposition of the pending charges;
- and

¹ Section 893.13(6)(b), F.S. The offense is a misdemeanor of the first degree. *Id.*

² Section 893.147(1), F.S. The offense is a misdemeanor of the first degree. *Id.*

³ Section 948.16(1)(a), F.S.

⁴ Section 948.16(1)(b), F.S.

- Determine, by written finding, whether the defendant successfully completed the pretrial intervention program.

If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution. The court shall dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.⁵

Felony Pretrial Intervention

The Department of Corrections operates a felony pretrial intervention program under s. 948.08, F.S. As a component of that statute, a person who is charged with a nonviolent felony and is identified as having a substance abuse problem or who is charged with a specified second- or third-degree felony, and who has not previously been convicted of a felony, is eligible for voluntary admission into a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program, for a period of not less than one year.⁶ At the end of the pretrial intervention period, the court shall make a decision as to the disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program.⁷ In 2009, the Legislature eliminated from the statute a requirement that, in order to participate, the individual not have previously been admitted to a felony pretrial program under the statute.⁸

Pretrial Diversion Programs in General

Research indicates that pretrial diversion programs have proved to be effective alternatives to traditional case proceedings. A study conducted by the National Association of Pretrial Services Agencies⁹ found that, although data on recidivism rates for these programs was sparse, the available data indicated low rates (between 1 percent and 12 percent depending on the type of crime) of recidivism for offenders that complete pretrial diversion programs.¹⁰ The low rate of recidivism for offenders in these programs may be due to the nature of the programs. The Pretrial Justice Institute¹¹ states that pretrial diversion programs “operate under the theory that if the underlying problems are addressed the individual is less likely to recidivate. This, in turn, will

⁵ Section 948.16(2), F.S.

⁶ Section 948.08(6), F.S. The specified second- or third-degree felonies are: purchase or possession of a control substance, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud. In addition, the person must not have been charged with a crime involving violence. *Id.*

⁷ *Id.*

⁸ Chapter 2009-64, s. 5, Laws of Fla.

⁹ Incorporated in 1973 as a not-for-profit corporation, the National Association of Pretrial Services Agencies (NAPSA) is the national professional association for the pretrial release and pretrial diversion fields. More information can be found at <http://www.napsa.org/mission.htm> (last visited Oct. 13, 2011).

¹⁰ Spurgeon Kennedy et al. *Promising Practices in Pretrial Diversion*, 16, available at <http://www.pretrial.org/Docs/Documents/PromisingPracticeFinal.pdf> (last visited Oct. 13, 2011).

¹¹ In 1976 the U.S. Department of Justice funded the Pretrial Justice Institute at the request of NAPSA, and it is the nation’s only not-for-profit organization dedicated to ensuring informed pretrial decision-making for safe communities. More information can be found at <http://www.pretrial.org/AboutPJI/Pages/default.aspx> (last visited Oct. 13, 2011).

lead to less crime and less future costs to the criminal justice system.”¹² Since their beginnings in the 1960’s, pretrial diversion programs have been continually expanded. In an article published by the National Association of Pretrial Services Agencies, the author states:

In 1972, ... fund [from the Law Enforcement Assistance Administration of the U.S. Department of Justice] led to the start-up of the Metropolitan Dade County Pretrial Intervention Project, in Miami, FL. The consistent record of accomplishment of Dade County Pretrial Intervention from that time forward led not only to the proliferation of diversion programs in the State of Florida – far in excess of the number anywhere else in the south – but to the adoption of a state diversion statute and to state-level standards and goals for diversion promulgated by a governor’s crime commission.¹³

III. Effect of Proposed Changes:

Under current law only a person who has been charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S., and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program.

The bill expands the pool of people who are eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program. It does so by removing the condition that, in order to participate in the substance abuse education and treatment intervention program, a person must not have been previously admitted to a pretrial program.

Additionally, the bill expands the pool of potential participants in the pretrial program to include persons who are charged with misdemeanor prostitution or underage possession of alcohol. Prostitution is defined by s. 796.07, F.S. The first violation is a second-degree misdemeanor, and a second offense is punishable as a first-degree misdemeanor.¹⁴ Possession of alcohol by a person under the age of 21 is prohibited by s. 562.111, F.S. The first offense is punishable as a second-degree misdemeanor while the second offense is a first-degree misdemeanor.¹⁵ The bill also provides that persons who are charged with misdemeanor possession of certain controlled substances without a valid prescription may be admitted to the program.¹⁶

¹² John Clark, Pretrial Justice Institute, *The Role of Traditional Pretrial Diversion in the Age of Specialty Treatment Courts: Expanding the Range of Problem-Solving Options at the Pretrial Stage*, 7 (October 2007), available at <http://www.pretrial.org/Reports/PJI%20Reports/Forms/DispForm.aspx?ID=25> (last visited Oct. 13, 2011).

¹³ John P. Bellassai, *A Short History of the Pretrial Diversion of Adult Defendants from Traditional Criminal Justice Processing Part One: The Early Years*, 5, available at <http://www.napsa.org/publications/diversionhistory.pdf> (last visited Oct. 13, 2011).

¹⁴ Section 796.07(4), F.S.

¹⁵ Section 562.111(1), F.S.

¹⁶ The bill cites s. 499.03, F.S., which punishes as a second-degree misdemeanor the possession of “any habit-forming, toxic, harmful, or new drug subject to s. 499.003(33), or prescription drug as defined in s. 499.003(43), unless the possession of the drug has been obtained by a valid prescription.” These drugs include “new drugs” (s. 499.003(33), F.S.), prescription drugs (s. 499.003(43), F.S.), medicinal drugs (s. 465.003(8), F.S.), misbranded drugs (s. 499.007(13), F.S.), compressed medical gas (s. 499.003(11), F.S.), prescription medical oxygen (s. 499.003(46), F.S.), and veterinary prescription drugs (s. 499.003(53), F.S.).

Finally, the bill provides that a person charged with a nonviolent, nontraffic-related misdemeanor offense¹⁷ who is identified as having a substance abuse problem also is eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program.

The bill retains the requirement that a person eligible to participate in a misdemeanor pretrial substance abuse education and treatment intervention program must not have previously been convicted of a felony.

The bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill appears to be exempt from the requirements of article VII, section 18 of the Florida Constitution because it involves a criminal law.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The number of potential participants in county-funded misdemeanor pretrial substance abuse education and treatment intervention programs could increase under the bill. Although no potential fiscal impact has been brought to the attention of professional staff of the committee, it is conceivable that the counties may decide to increase program capacity, which would result in increased expenditures. To the extent that persons who successfully complete programs have their criminal charges dismissed and are not sentenced to time in local jails, local governments may see positive fiscal effects.

¹⁷ These offenses would include certain trespass, theft, criminal-mischief, and worthless-check offenses to name a few.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Judiciary on October 18, 2011:

The committee substitute:

- Clarifies that eligibility to participate in a misdemeanor pretrial substance abuse education and treatment intervention program applies to a person who may be charged with one of several different types of misdemeanor offenses prescribed in the bill and clarifies that the prohibition against having a prior felony conviction applies in the case of each prescribed offense.
- Corrects the statutory citation (to s. 499.03, F.S.) for possession of a controlled substance without a valid prescription; and
- Adds the statutory citation for possession of alcohol while under 21 years of age (s. 562.111, F.S.) for continuity with the other specific offenses addressed in the bill, which include statutory citations.

B. Amendments:

None.

By the Committee on Judiciary; and Senators Ring and Bogdanoff

590-00673-12

2012186c1

1 A bill to be entitled
 2 An act relating to misdemeanor pretrial substance
 3 abuse programs; amending s. 948.16, F.S.; providing
 4 that a person who is charged with a nonviolent,
 5 nontraffic-related misdemeanor and identified as
 6 having a substance abuse problem or who is charged
 7 with certain other designated misdemeanor offenses,
 8 and who has not previously been convicted of a felony,
 9 may qualify for participation in a misdemeanor
 10 pretrial substance abuse program; providing an
 11 effective date.

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

15 Section 1. Paragraph (a) of subsection (1) of section
 16 948.16, Florida Statutes, is amended to read:

17 948.16 Misdemeanor pretrial substance abuse education and
 18 treatment intervention program.—

19 (1) (a) A person who is charged with a nonviolent,
 20 nontraffic-related misdemeanor and identified as having a
 21 substance abuse problem or who is charged with a misdemeanor for
 22 possession of a controlled substance or drug paraphernalia under
 23 chapter 893, prostitution under s. 796.07, possession of alcohol
 24 while under 21 years of age under s. 562.111, or possession of a
 25 controlled substance without a valid prescription under s.
 26 499.03, and who has not previously been convicted of a felony
 27 ~~nor been admitted to a pretrial program,~~ is eligible for
 28 voluntary admission into a misdemeanor pretrial substance abuse
 29 education and treatment intervention program, including a

Page 1 of 2

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

590-00673-12

2012186c1

30 treatment-based drug court program established pursuant to s.
 31 397.334, approved by the chief judge of the circuit, for a
 32 period based on the program requirements and the treatment plan
 33 for the offender, upon motion of either party or the court's own
 34 motion, except, if the state attorney believes the facts and
 35 circumstances of the case suggest the defendant is involved in
 36 dealing and selling controlled substances, the court shall hold
 37 a preadmission hearing. If the state attorney establishes, by a
 38 preponderance of the evidence at such hearing, that the
 39 defendant was involved in dealing or selling controlled
 40 substances, the court shall deny the defendant's admission into
 41 the pretrial intervention program.

42 Section 2. This act shall take effect July 1, 2012.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Budget - Subcommittee on Education Pre-K - 12
Appropriations
Commerce and Tourism
Community Affairs
Higher Education

SENATOR JEREMY RING

32nd District

October 24, 2011

Honorable Senator JD Alexander
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Alexander,

I am writing to ask you to place Senate Bill 186 relating to Misdemeanor Pre-Trial Substance Abuse Programs on the Budget agenda at your earliest convenience. I look forward to discussing this bill at greater length in front of your committee. Please do not hesitate to contact me if you have any questions or concerns about this legislation.

Very Truly Yours,

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

Jeremy Ring
Senator District 32

CC: Terry Rhodes, Staff Director

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392
- 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5094

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Budget - Subcommittee on Education Pre-K - 12
Appropriations
Commerce and Tourism
Community Affairs
Higher Education

SENATOR JEREMY RING
32nd District

November 17, 2011

Honorable Senator JD Alexander
412 Senate Office Building
404 South Monroe Street
Tallahassee, Fl 32399

Dear Chairman Alexander,

I am writing to ask you to place Senate Bill 186 relating to Misdemeanor Pre-Trial Substance Abuse Programs on the Budget agenda at your earliest convenience. I look forward to discussing this bill at greater length in front of your committee. Please do not hesitate to contact me if you have any questions or concerns about this legislation.

Very Truly Yours,

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

Jeremy Ring
Senator District 32

CC: Terry Rhodes, Staff Director

REPLY TO:

- 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392
- 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5094

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MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
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 Budget Committee

BILL: CS/SB 226

INTRODUCER: Budget Subcommittee on Transportation, Tourism, and Economic Development
 Appropriations and Senators Margolis and Gaetz

SUBJECT: Disabled Parking Permits

DATE: February 2, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Buford</u>	<u>TR</u>	Favorable
2.	<u>Carey/Smith</u>	<u>Meyer, R.</u>	<u>BTA</u>	Fav/CS
3.	<u>Carey/Smith</u>	<u>Rhodes</u>	<u>BC</u>	Favorable
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill revises laws relating to disability parking permits. The bill:

- expands the type of officials who may waive citations for disability permit parking violations by including the parking enforcement specialist or agency that issued the citation;
- revises the requirements for renewing or replacing a long-term disabled parking permit and includes prohibitions for certain violations;
- provides for random audits of disabled parking permit holders;
- requires the Department of Highway Safety and Motor Vehicles (DHSMV or department) to develop and implement a system to allow the reporting of abuses of disabled parking permits; and
- requires the department to develop and implement a public awareness campaign regarding how such abuse burdens disabled persons.

This bill substantially amends ss. 318.18 and 320.0848, Florida Statutes. This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Section 320.0848, F.S., authorizes the department and its agents to issue disabled parking permits to persons with impaired mobility. Such permits may be issued for a period of up to 4 years to any person with a long-term mobility impairment. Similarly, persons with a temporary mobility impairment may be issued a temporary disabled parking permit for a period of up to 6 months. A fee may be charged for the permit. However, no person may be charged a fee more frequently than once every 12 months.

A person applying for a disabled parking permit must be currently certified as being legally blind or as having any of the following conditions which would render the person unable to walk 200 feet without stopping to rest:

- The inability to walk without a brace, cane, crutch, prosthetic device, or other assistive device;
- The need to permanently use a wheelchair;
- Lung disease as measured within specified limits;
- Use of portable oxygen;
- A Class III or IV heart condition; or
- A severe limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition.

The certification must be made by a physician, podiatrist, optometrist, advanced registered nurse practitioner, or physician's assistant, any of which must be licensed under one of various chapters of Florida Statute. However, provisions are made to encompass certification by similarly-licensed physicians from other states, as well. The certification must include:

- The disability of the applicant;
- The certifying practitioner's name, address, and certification number;
- The eligibility criteria for the permit;
- Information concerning the penalty for falsification;
- The duration of the condition; and
- Justification for any additional placard issued.

The disabled parking permit must be a placard that can be placed in a motor vehicle so as to be visible from the front and rear of the vehicle. Each side of the placard must have the international symbol of accessibility in a contrasting color in the center so as to be visible. One side of the placard must display the applicant's driver's license number or state identification card number along with a warning the applicant must have such identification at all times while using the parking permit. No person will be required to pay a fee for a parking permit for disabled persons more than once in a 12-month period.

Although a disabled parking permit must be renewed every four years, it does not expire under current law. The department allows for online and mail-in renewals, as well as replacements in the case of stolen or damaged permits, for persons certified as having a long-term disability. Currently, s. 320.0848, F.S., does not require persons who have a long-term disabled parking

permit to apply for a renewal or a replacement permit in person or provide an additional certificate of disability.

Section 320.0848, F.S., allows for temporary disabled parking permits to be issued for the period of the disability as stated by the certifying physician, but not to exceed six months. A temporary parking permit for a disabled person must be a different color than the long-term permit (the long-term placard is blue, the temporary placard is red), and, similar to the long-term permit, must display the permit expiration date, the state identification or driver's license number of the permit holder.

An application for a disabled parking permit is an official state document. The following statement is required to appear on each application immediately below the applicant's name and the certifying practitioner's name:

Knowingly providing false information on this application is a misdemeanor of the first degree, punishable as provided in s. 775.082, Florida Statutes, or s. 775.083, Florida Statutes. The penalty is up to 1 year in jail or a fine of \$1000, or both.

A person who fraudulently obtains or unlawfully displays a disabled parking permit (or uses an unauthorized replica) is guilty of a 2nd degree misdemeanor. The penalty is up to 60 days in jail or a fine of \$500, or both.

A law enforcement officer may confiscate the disabled parking permit from any person who fraudulently obtains or unlawfully uses such a permit, including using the permit while the owner of the permit is not being transported. A law enforcement officer may confiscate any disabled parking permit that is expired, reported as lost or stolen, or defaced, or that does not display a personal identification number. However, the permit owner may apply for a new permit immediately.

The department tracks all disabled parking permits issued since 1999, including confiscations of the permit. According to DHSMV, the department conducts some auditing to ensure that driver licenses are only issued to living persons. However, programming is not specifically tailored to audit the records of persons to whom disabled parking permits have been issued.

III. Effect of Proposed Changes:

Section 1 amends s. 318.18(6), F.S., expanding the list of officials who can waive citations for illegally parking in a disability parking space. The bill allows the parking enforcement specialist or the agency that issued a parking citation to waive citations and sign affidavits of compliance.

Section 2 amends s. 320.0848, F.S., to require persons certified as permanently disabled who are holders of a disabled parking permit to renew by providing a certificate of disability issued within the last 12 months. Persons obtaining a replacement for a disabled parking permit must provide a certificate of disability issued within the last 12 months in order to submit the required application.

Current law allows law enforcement officers to confiscate the disabled parking permit of a person who has obtained it fraudulently or uses it unlawfully. The bill also authorizes parking enforcement specialists to confiscate fraudulently obtained or unlawfully used permits.

The bill requires a person who is found guilty of unlawful use of a permit (or who enters a plea of nolo contendere to the charge) to wait four years before applying for a new disabled permit if he or she had a prior finding of guilt or plea of nolo contendere to the charge.

The bill requires DHSMV to conduct random audits of disabled parking permit holders at least every six months. As a component of this audit, the department is required to:

- review the death records maintained by the Department of Health to ensure the permit holder is not deceased;
- review the number of times the permit has been confiscated or unlawfully used;
- determine if the permit has ever been reported lost or stolen; and
- determine the current status of the permit.

The department is directed to verify, at least annually, that the owner of each disabled parking permit has not died. If a permit owner is found to be deceased, the department is directed to promptly invalidate the decedent's permit. The department is also required to develop and implement a method by which abuse can be reported by telephone hotline, submission of an online form, or by mail.

Section 3 creates an unidentified section of Chapter 320, F.S., to require DHSMV to make a public announcement and conduct a public awareness campaign regarding the abuses of disabled parking permits and the burdens inflicted on disabled persons throughout the state. The campaign is to begin within 30 days after the effective date of this act and continue for not less than six months. Its purpose is to inform the public about:

- the requirement to provide a certificate of disability issued within the last 12 months in order to renew an expired disabled parking permit or replace a lost or stolen disabled parking permit;
- the implementation of the periodic disabled parking permit audit system; and
- the new complaint process for reporting abuses of disabled parking permits.

Section 4 establishes an effective date of July 1, 2012.

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:

Permit holders will bear costs related to appearing in person at a Tax Collector's office and obtaining a current certification form from their physician every four years.

C. Government Sector Impact:

According to DHSMV, the public awareness provisions of the bill would result in non-recurring start-up costs of approximately \$114,600 for printing and mailing. Implementation of the audit and reporting provisions of the bill would result in recurring costs \$51,172 for salary, benefits, and other expenses accruing to one additional Senior Highway Safety Specialist position.

DHSMV also estimates approximately 60 hours of programming would be needed to implement the provisions of the bill. These costs would be absorbed within existing DHSMV resources.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

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

CS by the Budget Subcommittee on Transportation and Economic Development Appropriations on December 8, 2011:

The committee substitute provides a certificate of disability that has been issued in the previous 12 months be provided when renewing or replacing a disabled parking permit rather than requiring that the applicant appear in person.

B. Amendments:

None.

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



866216

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Budget (Margolis) recommended the following:

Senate Amendment (with title amendment)

Delete lines 130 - 141.

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

And the title is amended as follows:

Delete lines 17 - 19

and insert:

reporting abuse of disabled parking permits; providing
an effective date.

By the Committee on Budget Subcommittee on Transportation,
Tourism, and Economic Development Appropriations; and Senators
Margolis and Gaetz

606-01582-12

2012226c1

A bill to be entitled

An act relating to disabled parking permits; amending
s. 318.18, F.S.; providing for a parking enforcement
specialist or agency to validate compliance for the
disposition of a citation issued for illegally parking
in a space provided for people who have disabilities;
amending s. 320.0848, F.S.; revising requirements for
renewal or replacement of a disabled parking permit;
prohibiting applying for a new disabled parking permit
for a certain period of time upon a second finding of
guilt or plea of nolo contendere to unlawful use of
such permit; requiring the Department of Highway
Safety and Motor Vehicles to audit disabled parking
permitholders, verify certain information, and
invalidate the permit of a deceased permitholder;
directing the department to implement a means for
reporting abuse of disabled parking permits; providing
for the department to conduct a public awareness
campaign; providing an effective date.

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

Section 1. Subsection (6) of section 318.18, Florida
Statutes, is amended to read:

318.18 Amount of penalties.—The penalties required for a
noncriminal disposition pursuant to s. 318.14 or a criminal
offense listed in s. 318.17 are as follows:

(6) One hundred dollars or the fine amount designated by
county ordinance, plus court costs for illegally parking, under

Page 1 of 5

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

606-01582-12

2012226c1

s. 316.1955, in a parking space provided for people who have
disabilities. However, this fine ~~shall~~ will be waived if a
person provides to the law enforcement agency or parking
enforcement specialist or agency that issued the citation for
such a violation proof that the person committing the violation
has a valid parking permit or license plate issued pursuant to
s. 316.1958, s. 320.0842, s. 320.0843, s. 320.0845, or s.
320.0848 or a signed affidavit that the owner of the disabled
parking permit or license plate was present at the time the
violation occurred, and that such a parking permit or license
plate was valid at the time the violation occurred. The law
enforcement officer or agency or the parking enforcement
specialist or agency, upon determining that all required
documentation has been submitted verifying that the required
parking permit or license plate was valid at the time of the
violation, must sign an affidavit of compliance. Upon provision
of the affidavit of compliance and payment of a dismissal fee of
up to \$7.50 to the clerk of the circuit court, the clerk shall
dismiss the citation.

Section 2. Paragraph (d) of subsection (1), paragraph (e)
of subsection (2), and subsection (8) of section 320.0848,
Florida Statutes, are amended, present subsections (9) and (10)
are renumbered as subsections (11) and (12), respectively, and
new subsections (9) and (10) are added to that section, to read:

320.0848 Persons who have disabilities; issuance of
disabled parking permits; temporary permits; permits for certain
providers of transportation services to persons who have
disabilities.—

(1)

Page 2 of 5

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606-01582-12 2012226c1

59 (d) Beginning October 1, 2012 ~~April 1, 1999~~, the department
60 ~~of Highway Safety and Motor Vehicles~~ shall renew the disabled
61 parking permit of any person certified as permanently disabled
62 on the application if the person provides a certificate of
63 disability issued within the last 12 months pursuant to this
64 subsection.

65 (2) DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM
66 MOBILITY PROBLEMS.—

67 (e) To obtain a replacement for a disabled parking permit
68 that has been lost or stolen, a person must submit an
69 application on a form prescribed by the department, provide a
70 certificate of disability issued within the last 12 months
71 pursuant to subsection (1), and must pay a replacement fee in
72 the amount of \$1 ~~\$1.00~~, to be retained by the issuing agency. If
73 the person submits with the application a police report
74 documenting that the permit was stolen, there is no replacement
75 fee.

76 (8) A law enforcement officer or a parking enforcement
77 specialist may confiscate the disabled parking permit from any
78 person who fraudulently obtains or unlawfully uses such a
79 permit. A law enforcement officer or a parking enforcement
80 specialist may confiscate any disabled parking permit that is
81 expired, reported as lost or stolen, or defaced, or that does
82 not display a personal identification number.

83 (a) ~~Beginning April 1, 1999,~~ The permit number of each
84 confiscated permit must be submitted to the department ~~of~~
85 ~~Highway Safety and Motor Vehicles~~, and the fact that the permit
86 has been confiscated must be noted on the permitholder's record.
87 If two permits issued to the same person have been confiscated,

Page 3 of 5

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606-01582-12 2012226c1

88 the department ~~of Highway Safety and Motor Vehicles~~ shall refer
89 the information to the central abuse hotline of the Department
90 of Children and Family Services for an investigation of
91 potential abuse, neglect, or exploitation of the permit owner.

92 (b) A confiscated permit must be held as evidence until a
93 judicial decision about the violation has been made. After a
94 finding of guilt has been made or a plea of nolo contendere has
95 been entered, the charging agency shall destroy the confiscated
96 permit. A confiscated permit may not, under any circumstances,
97 be returned to its registered owner after a finding of guilt has
98 been made or a plea of nolo contendere has been entered in
99 court. If a finding of guilt has been made or a plea of nolo
100 contendere has been entered for fraudulent or other unlawful use
101 of a disabled parking permit after a prior finding of guilt or
102 plea of nolo contendere for fraudulent or other unlawful use of
103 a disabled parking permit issued to the same registered
104 permitholder, the permitholder may not apply for a new disabled
105 parking permit for 4 years. The permit number of each destroyed
106 permit must be reported to the department, and the department
107 must record in the real-time disabled parking permit database
108 that the permit has been invalidated.

109 (9) (a) At least once every 6 months, the department shall
110 randomly audit disabled parking permitholders to ensure that all
111 required criteria for the ownership and possession of such
112 permit remain valid. As a component of the audit, the department
113 shall, at a minimum:

114 1. Review death records maintained by the Department of
115 Health to ensure that the permitholder has not died.

116 2. Review the number of times the permit has been

Page 4 of 5

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606-01582-12 2012226c1

117 confiscated for fraudulent or unlawful use, if at all.

118 3. Determine if the permit has ever been reported lost or
119 stolen and, if so, determine the current status of the permit.

120 (b) At least annually, the department shall verify that the
121 owner of each disabled parking permit has not died. Such
122 verification shall include, but need not be limited to,
123 consultation of death records maintained by the Department of
124 Health. If a disabled parking permitholder is found to be
125 deceased, the department shall promptly invalidate the
126 decedent's disabled parking permit.

127 (10) The department shall develop and implement a means by
128 which persons can report abuse of disabled parking permits by
129 telephone hotline or by submitting a form online or by mail.

130 Section 3. (1) The Department of Highway Safety and Motor
131 Vehicles shall make a public announcement and conduct a public
132 awareness campaign regarding the abuses of disabled parking
133 permits and the burdens such abuses inflict on disabled persons
134 throughout the state. The public awareness campaign shall also
135 inform the public about:

136 (a) The implementation of the new periodic disabled parking
137 permit audit system.

138 (b) The implementation of the new complaint process for
139 reporting abuses of disabled parking permits.

140 (2) The public awareness campaign shall commence by August
141 1, 2012, and shall continue for at least 6 months.

142 Section 4. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic disabled parking permits

Bill Number 226
(if applicable)

Name Joya McCarty

Amendment Barcode _____
(if applicable)

Job Title MS Society

Address 1914 Lorette Drive

Phone _____

Street

Tallahassee Fl.

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing MS Society

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

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: November 2, 2011

I respectfully request that **226**, relating to Disabled Parking Permit, be placed on the:

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

Senator Gwen Margolis

Senator Gwen Margolis
Florida Senate, District 35

SENATE APPROPRIATIONS
11 NOV -2 AM 11:09
STAFF DIR. _____ STAFF _____



The Florida Senate

Committee Agenda Request

To: Senator JD Alexander, Chair
Committee on Budget

Subject: Committee Agenda Request

Date: December 12, 2011

SENATE APPROPRIATIONS
11 DEC 12 PM 12:10
STAFF DIR. STAFF

I respectfully request that **226**, relating to Disabled Parking Permits, be placed on the:

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

A handwritten signature in cursive script that reads "Senator Gwen Margolis".

Senator Gwen Margolis
Florida Senate, District 35

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 Budget Committee

BILL: SB 388

INTRODUCER: Senator Latvala

SUBJECT: Recreational Vehicle Dealers

DATE: February 2, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Buford	TR	Favorable
2.	Carey/Smith	Meyer, R.	BTA	Favorable
3.	Carey/Smith	Rhodes	BC	Favorable
4.				
5.				
6.				

I. Summary:

The bill amends s. 320.771, F.S., to specify circumstances under which a recreational vehicle (RV) dealer may apply for a certificate of title to an RV using a manufacturer’s statement of origin. The bill provides that RV dealers may apply for a certificate of title on RVs within a given line-make only if:

- The dealer is authorized by a manufacturer/dealer agreement, as defined in s. 320.3202, F.S., on file with the Department of Highway Safety and Motor Vehicles (DHSMV or department), to buy, sell, or deal in that line-make, and
- The dealer is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

This bill substantially amends s. 320.771, F.S.

II. Present Situation:

Section 320.771, F.S., requires recreational vehicle dealers to be licensed by DHSMV, and provides a number of regulations for RV dealers relating to dealer licensing and RV titling. Currently, s. 320.771, F.S., provides no specific guidance to DHSMV regarding the authorization of an RV dealer to apply for a title for certain RVs by providing a manufacturer’s statement of origin to the department.

According to DHSMV, as of September 30, 2011, the department has issued licenses to 117 RV manufacturers, distributors or importers, and 84 RV dealers. These manufacturers, distributors or importers are licensed for particular line-make(s) and most of them have more than one model

under each line-make. The department authorizes the sale of models under each line-make by an agreement signed by both the dealer and manufacturer.

III. Effect of Proposed Changes:

The bill amends s. 320.771, F.S., to specify circumstances under which a RV dealer may apply for a certificate of title to an RV using a manufacturer's statement of origin. The bill provides that RV dealers may apply for a certificate of title on RVs within a given line-make only if:

- The dealer is authorized by a manufacturer/dealer agreement, as defined in s. 320.3202, F.S., on file with DHSMV, to buy, sell, or deal in that line-make, and
- The dealer is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

Other Potential Implications:

Dealers will be required to have a manufacturer/dealer agreement specifying each model they are authorized to buy, sell, or deal within a specific line-make. Dealers will be able to apply for titles only if the dealer is authorized for a specific model.

Dealers having a manufacturer/dealer agreement will be able to open an establishment within the same geographic area as an existing dealer. The new dealer may only be authorized to buy, sell, or deal in specific models that the existing dealer is not authorized to buy, sell or deal in within a specific line-make. This could place some dealers at a competitive disadvantage, especially if they are in the same geographic area selling the same line-make but different models.¹

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:

¹ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 388*, (October 12, 2011, on file with the Transportation Committee).

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

None.

A. Private Sector Impact:

According to DHSMV, there is an indeterminate fiscal impact. Dealers having a manufacturer/dealer agreement will be able to open an establishment within the same geographic area as an existing dealer. The new dealer may only be authorized to buy, sell, or deal in specific models that the existing dealer is not authorized to buy, sell or deal in within a specific line-make. This would place some dealers at a competitive disadvantage, especially if he or she is in the same geographic area selling the same line-make but different models.

B. Government Sector Impact:

According to the department, programming will be required to capture all brand or model names under a line-make for each of the manufacturers and their associated recreational vehicle dealers. This would require Information Systems Administration (ISA) to:

- Provide additional fields in the line-make code table in the Florida Real-Time Vehicle Information System (FRVIS) to capture the brands or models under a line-make for a manufacturer, importer, or distributor.
- Provide a drop down box of brands or models under a line-make to select from while licensing new franchise dealers.
- Provide a method to add the brands under a line-make for existing franchise dealers.
- Enhance existing reports on manufacturers and dealers for particular line-makes to also be generated by models.²

Programming costs to implement the provisions of this bill will be absorbed within existing resources.

In addition, capturing the brands under a line-make for a licensed manufacturer and its associated dealers will be great assistance to the department to ensure that the correct brands stated in the single franchise agreement for the dealer are being sold.³

VI. Technical Deficiencies:

None.

² *Id.*

³ *Id.*

VII. Related Issues:

In order to allow sufficient time for implementation of necessary programming modifications, the department recommends the effective date of the bill be changed to October 1, 2012.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial 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 Latvala

16-00242-12

2012388__

A bill to be entitled

An act relating to recreational vehicle dealers;
amending s. 320.771, F.S.; authorizing such dealers to
obtain certificates of title for recreational
vehicles; providing limitations and requirements;
providing an effective date.

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

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

320.771 License required of recreational vehicle dealers.—

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

(a) 1. "Dealer" means any person engaged in the business of
buying, selling, or dealing in recreational vehicles or offering
or displaying recreational vehicles for sale. The term "dealer"
includes a recreational vehicle broker. Any person who buys,
sells, deals in, or offers or displays for sale, or who acts as
the agent for the sale of, one or more recreational vehicles in
any 12-month period shall be prima facie presumed to be a
dealer. The terms "selling" and "sale" include lease-purchase
transactions. The term "dealer" does not include banks, credit
unions, and finance companies that acquire recreational vehicles
as an incident to their regular business and does not include
mobile home rental and leasing companies that sell recreational
vehicles to dealers licensed under this section.

2. A licensed dealer may transact business in recreational
vehicles with a motor vehicle auction as defined in s.

320.27(1)(c)4. Further, a licensed dealer may, at retail or

Page 1 of 2

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

16-00242-12

2012388__

wholesale, sell a motor vehicle, as described in s.

320.01(1)(a), acquired in exchange for the sale of a

recreational vehicle, if such acquisition is incidental to the
principal business of being a recreational vehicle dealer.

However, a recreational vehicle dealer may not buy a motor
vehicle for the purpose of resale unless licensed as a motor
vehicle dealer pursuant to s. 320.27. A dealer may apply for a
certificate of title to a recreational vehicle required to be
registered under s. 320.08(9), using a manufacturer's statement
of origin as permitted by s. 319.23(1), only if such dealer is
authorized by a manufacturer/dealer agreement, as defined in s.
320.3202, on file with the department, to buy, sell, or deal in
that particular line-make of recreational vehicle, and the
dealer is authorized by such agreement to perform delivery and
preparation obligations and warranty defect adjustments on that
line-make.

Section 2. This act shall take effect July 1, 2012.

Page 2 of 2

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

Maxwell, Holly

From: Weiss, Alicia
Sent: Monday, January 23, 2012 8:10 AM
To: Maxwell, Holly
Subject: FW: SB 388/ Request for Consideration
Attachments: Request.Budget.1.20.12.doc

Holly, let me know if you need a refresher on this.

From: WILSON.JENNIFER.S16 [<mailto:WILSON.JENNIFER.S16@flsenate.gov>]
Sent: Saturday, January 21, 2012 2:16 PM
To: Rhodes, Terry; Weiss, Alicia
Subject: SB 388/ Request for Consideration

Good Afternoon,

Attached is a request for consideration of Senate Bill 388 by Senator Latvala, a hard copy of which has been sent to your office as well as to the office of Chairman Alexander. Please feel free to contact our office at 850-487-5075 if you need anything else in this regard.

Have a great day,

Jennifer



Jennifer R. Wilson

Legislative Assistant to State Senator Jack Latvala, District 16
12425 28th Street N
Suite 102
St. Petersburg, FL 33716
(727) 556-6500
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100
(850) 487-5075

Wilson.jennifer.S16@flsenate.gov

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/SB 390

INTRODUCER: Budget Subcommittee on Transportation and Economic Development Appropriations and Senator Bogdanoff

SUBJECT: Bicycle Regulations

DATE: February 2, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Abrams	Buford	TR	Favorable
2.	Carey/Smith	Meyer, R.	BTA	Fav/CS
3.	Carey/Smith	Rhodes	BC	Favorable
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
- B. AMENDMENTS..... Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill amends section 316.2065(5), Florida Statutes, to clarify situations in which a bicyclist is not required to ride in the marked bicycle lane (if such a lane is present) or as close as practicable to the right-hand curb or edge of the roadway. The bill explains a bicyclist is exempt from this requirement when a “potential conflict” or a turn lane interrupts the roadway or bicycle lane.

The bill removes the requirement in section 316.2065(7), Florida Statutes, to keep at least one hand on a handlebar while operating a bicycle.

The bill amends section 316.2065(8), Florida Statutes, to allow law enforcement officers to issue bicycle safety brochures and verbal warnings to bicycle riders and passengers who violate bicycle lighting equipment standards in lieu of issuing a citation. At the discretion of the law enforcement officer, a bicycle rider who violates the bicycle lighting equipment standards may still be issued a citation and assessed a fine. However, the bill requires the court to dismiss the charge against a bicycle rider for a first violation of this offense upon proof of purchase and installation of the proper lighting equipment.

This bill substantially amends sections 316.2065 and 322.27, Florida Statutes.

I. Present Situation:

Operating Procedures

Bicyclists are considered vehicle operators; they are required to obey the same rules of the road as other vehicle operators, including obeying traffic signs, signals, and lane markings.¹ Each year, more than 500,000 people in the US are treated in emergency departments, and more than 700 people die as a result of bicycle-related injuries.² In 2009, 630 pedalcyclists³ were killed and an additional 51,000 were injured in motor vehicle traffic crashes. Pedalcyclist deaths accounted for two percent of all motor vehicle traffic fatalities, and made up two percent of all the people injured in traffic crashes during the year.⁴

Section 316.2065, F.S., requires bicyclists on the roadway to ride in the marked bicycle lane if the roadway is marked for bicycle use or if no lane is marked, as close as practicable to the right-hand curb or edge of the roadway, with the following exceptions:

- When overtaking and passing another bicycle or vehicle moving in the same direction;
- When preparing to turn left; or
- When “reasonably necessary” to avoid unsafe conditions such as fixed objects, surface hazards, and parked vehicles.

Section 316.2065(7), F.S., specifies operators of a bicycle must keep at least one hand upon the handlebars. Violators of this section are subject to a general civil traffic violation for pedestrian/bicycle infractions. The base fine is \$15 plus \$8.50 in required fees. Other fees depend upon the county in which the violation occurs, either because only certain counties are eligible to assess the fee by statute or because the option and amount is determined by ordinance.⁵ The total cost of the violation generally varies between \$56.50 and \$82.50.⁶

Current Bicycle Lighting Requirements

Currently, every bicycle in use between sunset and sunrise must be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear, each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by law.

¹ U.S. Department of Transportation, National Highway Traffic Safety Administration, Traffic Safety Facts: 2009 Data, available at <http://www-nrd.nhtsa.dot.gov/Pubs/811386.pdf>, (Last visited on October 25, 2011).

² Bicycle Related Injuries, Centers for Disease Control and Prevention, available at <http://www.cdc.gov/HomeandRecreationalSafety/bikeinjuries.html>, (Last visited on October 25, 2011).

³ The term pedalcyclists includes operators of two-wheel nonmotorized vehicles, tricycles, and unicycles powered solely by pedals. *Supra* note 1.

⁴ *Supra* note 1.

⁵ These fees are authorized by ss. 318.1215, 318.18, 938.15, and 938.19, F.S.

⁶ Florida Association of Court Clerks and Comptrollers, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs, and Fines Effective July 2010*, 15 (July 24, 2010), http://www.flclerks.com/Pub_info/2010_Pub_Info/2010_Distribution_Schedule_of_Court_Related_Funds_FACC_0610FIN_AL.pdf, (Last visited October 25, 2011).

Violation of bicycle lighting requirements is a non-criminal traffic infraction punishable as a pedestrian violation by a \$15 fine plus applicable court costs and fees.

Law enforcement officers are authorized to issue noncriminal traffic citations for violations of s. 316.2065, F.S. Pedestrian and bicycle infractions overall accounted for 15,293 of the 4.3 million tickets issued statewide in 2010.⁷

II. Effect of Proposed Changes:

Section 1 amends s. 316.2065(5), F.S., to clarify situations in which a bicyclist is not required to ride in the marked bicycle lane (if such a lane is present) or as close as practicable to the right-hand curb or edge of the roadway. The bill clarifies a bicyclist is exempt from this requirement when a “potential conflict” or a turn lane interrupts the roadway or bicycle lane.

Section 1 removes the requirement for having at least one hand on the handlebars when operating a bicycle as specified in s. 316.2065(7), F.S. The section also renumbers subsections (8) through (20), F.S., and cross-references contained therein. According to the Florida Department of Transportation (FDOT) it is unsafe not to keep at least one hand on the handlebars when riding a bicycle. Because this regulatory change may disincentivize the safe operation of bicycles by some users, the FDOT believes it could result in an increased number of injuries due to bicycle accidents and an increase in related personal injury costs and possibly litigation costs.⁸ The Florida Department of Highway Safety and Motor Vehicles (HSMV) likewise believes the change “will result in bicycles being operated in a less safe manner, which could increase bicycle accidents.”⁹

Section 1 also amends s. 316.2065(8), F.S., to allow law enforcement officers to issue bicycle safety brochures and verbal warnings to bicycle riders and passengers who violate bicycle lighting equipment standards in lieu of issuing a citation. At the discretion of the law enforcement officer, a bicycle rider who violates the bicycle lighting equipment standards may still be issued a citation and assessed a fine as described above. However, the bill requires the court to dismiss the fine against a bicycle rider for a first violation of this offense upon proof of purchase and installation of the proper lighting equipment.

Section 2 amends cross-references in s. 322.27, F.S., to reflect the renumbering of s. 316.2065(7) done in Section 1.

Section 3 provides an effective date of July 1, 2012.

⁷ Department of Highway Safety and Motor Vehicles, *2010 Annual Report Uniform Traffic Citation Statistics* (September 1, 2011) available at <http://www.flhsmv.gov/reports/2010UTCStats/2010.UTC.pdf>, last accessed October 28, 2011.

⁸ E-mail from Florida Department of Transportation, March 15, 2011 (on file with the Senate Transportation Committee).

⁹ Department of Highway Safety and Motor Vehicles, *Senate Bill 390 Bill Analysis* (October 20, 2011) (on file with the Senate Transportation Committee).

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the Department of Highway Safety and Motor Vehicles (department), this change will result in bicycles being operated in a less safe manner and could increase bicycle accidents.¹⁰

The bill may cause an increase in bicyclists purchasing lighting and/or reflective equipment to comply with the provisions of this bill. Violators may be subject to a fine for failure to comply with the provisions of this bill.¹¹

C. Government Sector Impact:

The department states the bill will have no fiscal impact on the department.¹²

The department states state and local governments may see additional revenues as a result of possible fines for pedestrian violations.¹³

There may be additional costs for increased emergency medical services if bicycle-related accidents increase.¹⁴

The bill does not provide for the printing of bicycle safety brochures. However, profits from the Florida “Share the Road” specialty tag program inure to the benefit of the Florida Bicycle Association¹⁵ and Bike Florida.¹⁶ These organizations use a portion of

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Florida Bicycle Association, <http://www.floridabicycle.org/programs/sharetheroad.html>, last accessed November 1, 2011.

these proceeds to create educational materials and may be able to provide the requisite number of bicycle safety brochures.

V. Technical Deficiencies:

None.

VI. Related Issues:

In order to allow sufficient time for implementation of necessary programming modifications, the department recommends the effective date of the bill be changed to October 1, 2012.

VII. Additional Information:

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

CS by Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations on January 12, 2012:

The CS adds bicycles to the list of vehicles permitted to have flashing lights located on the vehicle.

- B. **Amendments:**

None.

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

¹⁶Bike Florida, Inc., <http://www.bikeflorida.org/about.php>, last accessed November 1, 2011.

By the Committee on Budget Subcommittee on Transportation,
Tourism, and Economic Development Appropriations; and Senator
Bogdanoff

606-01882-12

2012390c1

A bill to be entitled

An act relating to bicycle regulations; amending s.
316.2065, F.S.; clarifying provisions relating to when
a bicycle operator must ride in a bicycle lane or
along the curb or edge of the roadway; removing a
requirement to keep one hand on the handlebars while
operating a bicycle; providing for enforcement of
requirements for bicycle lighting equipment; providing
penalties for violations; amending s. 316.2397, F.S.;
conforming provisions to changes made by the act;
amending s. 322.27, F.S.; conforming a cross-reference
to changes made by the act; providing an effective
date.

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

Section 1. Subsection (5) and subsections (7) through (20)
of section 316.2065, Florida Statutes, are amended to read:

316.2065 Bicycle regulations.—

(5) (a) Any person operating a bicycle upon a roadway at
less than the normal speed of traffic at the time and place and
under the conditions then existing shall ride in the lane marked
for bicycle use or, if no lane is marked for bicycle use, as
close as practicable to the right-hand curb or edge of the
roadway except under any of the following situations:

1. When overtaking and passing another bicycle or vehicle
proceeding in the same direction.

2. When preparing for a left turn at an intersection or
into a private road or driveway.

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

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3. When reasonably necessary to avoid any condition or
potential conflict, including, but not limited to, a fixed or
moving object, parked or moving vehicle, bicycle, pedestrian,
animal, surface hazard, turn lane, or substandard-width lane,
which ~~that~~ makes it unsafe to continue along the right-hand curb
or edge or within a bicycle lane. For the purposes of this
subsection, a "substandard-width lane" is a lane that is too
narrow for a bicycle and another vehicle to travel safely side
by side within the lane.

(b) Any person operating a bicycle upon a one-way highway
with two or more marked traffic lanes may ride as near the left-
hand curb or edge of such roadway as practicable.

~~(7) Any person operating a bicycle shall keep at least one
hand upon the handlebars.~~

~~(7)(8)~~ Every bicycle in use between sunset and sunrise
shall be equipped with a lamp on the front exhibiting a white
light visible from a distance of at least 500 feet to the front
and a lamp and reflector on the rear each exhibiting a red light
visible from a distance of 600 feet to the rear. A bicycle or
its rider may be equipped with lights or reflectors in addition
to those required by this section. A law enforcement officer may
issue a bicycle safety brochure and a verbal warning to a
bicycle rider who violates this subsection. A bicycle rider who
violates this subsection may be issued a citation by a law
enforcement officer and assessed a fine for a pedestrian
violation, as provided in s. 318.18. The court shall dismiss the
charge against a bicycle rider for a first violation of this
subsection upon proof of purchase and installation of the proper
lighting equipment.

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59 (8)~~(9)~~ No parent of any minor child and no guardian of any
60 minor ward may authorize or knowingly permit any such minor
61 child or ward to violate any of the provisions of this section.

62 (9)~~(10)~~ A person propelling a vehicle by human power upon
63 and along a sidewalk, or across a roadway upon and along a
64 crosswalk, has all the rights and duties applicable to a
65 pedestrian under the same circumstances.

66 (10)~~(11)~~ A person propelling a bicycle upon and along a
67 sidewalk, or across a roadway upon and along a crosswalk, shall
68 yield the right-of-way to any pedestrian and shall give an
69 audible signal before overtaking and passing such pedestrian.

70 (11)~~(12)~~ No person upon roller skates, or riding in or by
71 means of any coaster, toy vehicle, or similar device, may go
72 upon any roadway except while crossing a street on a crosswalk;
73 and, when so crossing, such person shall be granted all rights
74 and shall be subject to all of the duties applicable to
75 pedestrians.

76 (12)~~(13)~~ This section shall not apply upon any street while
77 set aside as a play street authorized herein or as designated by
78 state, county, or municipal authority.

79 (13)~~(14)~~ Every bicycle shall be equipped with a brake or
80 brakes which will enable its rider to stop the bicycle within 25
81 feet from a speed of 10 miles per hour on dry, level, clean
82 pavement.

83 (14)~~(15)~~ A person engaged in the business of selling
84 bicycles at retail shall not sell any bicycle unless the bicycle
85 has an identifying number permanently stamped or cast on its
86 frame.

87 (15)~~(16)~~ (a) A person may not knowingly rent or lease any

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88 bicycle to be ridden by a child who is under the age of 16 years
89 unless:

- 90 1. The child possesses a bicycle helmet; or
- 91 2. The lessor provides a bicycle helmet for the child to
92 wear.

93 (b) A violation of this subsection is a nonmoving
94 violation, punishable as provided in s. 318.18.

95 (16)~~(17)~~ The court may waive, reduce, or suspend payment of
96 any fine imposed under subsection (3) or subsection (15) ~~(16)~~
97 and may impose any other conditions on the waiver, reduction, or
98 suspension. If the court finds that a person does not have
99 sufficient funds to pay the fine, the court may require the
100 performance of a specified number of hours of community service
101 or attendance at a safety seminar.

102 (17)~~(18)~~ Notwithstanding s. 318.21, all proceeds collected
103 pursuant to s. 318.18 for violations under paragraphs (3)(e) and
104 (15)(b) ~~(16)(b)~~ shall be deposited into the State Transportation
105 Trust Fund.

106 (18)~~(19)~~ The failure of a person to wear a bicycle helmet
107 or the failure of a parent or guardian to prevent a child from
108 riding a bicycle without a bicycle helmet may not be considered
109 evidence of negligence or contributory negligence.

110 (19)~~(20)~~ Except as otherwise provided in this section, a
111 violation of this section is a noncriminal traffic infraction, a
112 punishable as a pedestrian violation as provided in chapter 318.
113 A law enforcement officer may issue traffic citations for a
114 violation of subsection (3) or subsection (15) ~~(16)~~ only if the
115 violation occurs on a bicycle path or road, as defined in s.
116 334.03. However, a law enforcement officer may not issue

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117 citations to persons on private property, except any part
 118 thereof which is open to the use of the public for purposes of
 119 vehicular traffic.

120 Section 2. Subsection (7) of section 316.2397, Florida
 121 Statutes, is amended to read:

122 316.2397 Certain lights prohibited; exceptions.—

123 (7) Flashing lights are prohibited on vehicles except as a
 124 means of indicating a right or left turn, to change lanes, or to
 125 indicate that the vehicle is lawfully stopped or disabled upon
 126 the highway; however, or except that the lamps authorized under
 127 in subsections (1), (2), (3), (4), and (9), and s. 316.235(5),
 128 or s. 316.2065 may be permitted to flash.

129 Section 3. Paragraph (d) of subsection (3) of section
 130 322.27, Florida Statutes, is amended to read:

131 322.27 Authority of department to suspend or revoke
 132 license.—

133 (3) There is established a point system for evaluation of
 134 convictions of violations of motor vehicle laws or ordinances,
 135 and violations of applicable provisions of s. 403.413(6)(b) when
 136 such violations involve the use of motor vehicles, for the
 137 determination of the continuing qualification of any person to
 138 operate a motor vehicle. The department is authorized to suspend
 139 the license of any person upon showing of its records or other
 140 good and sufficient evidence that the licensee has been
 141 convicted of violation of motor vehicle laws or ordinances, or
 142 applicable provisions of s. 403.413(6)(b), amounting to 12 or
 143 more points as determined by the point system. The suspension
 144 shall be for a period of not more than 1 year.

145 (d) The point system shall have as its basic element a

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146 graduated scale of points assigning relative values to
 147 convictions of the following violations:

148 1. Reckless driving, willful and wanton—4 points.

149 2. Leaving the scene of a crash resulting in property
 150 damage of more than \$50—6 points.

151 3. Unlawful speed resulting in a crash—6 points.

152 4. Passing a stopped school bus—4 points.

153 5. Unlawful speed:

154 a. Not in excess of 15 miles per hour of lawful or posted
 155 speed—3 points.

156 b. In excess of 15 miles per hour of lawful or posted
 157 speed—4 points.

158 6. A violation of a traffic control signal device as
 159 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.

160 However, no points shall be imposed for a violation of s.
 161 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
 162 stop at a traffic signal and when enforced by a traffic
 163 infraction enforcement officer. In addition, a violation of s.
 164 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
 165 stop at a traffic signal and when enforced by a traffic
 166 infraction enforcement officer may not be used for purposes of
 167 setting motor vehicle insurance rates.

168 7. All other moving violations (including parking on a
 169 highway outside the limits of a municipality)—3 points. However,
 170 no points shall be imposed for a violation of s. 316.0741 or s.
 171 316.2065(11) ~~316.2065(12)~~; and points shall be imposed for a
 172 violation of s. 316.1001 only when imposed by the court after a
 173 hearing pursuant to s. 318.14(5).

174 8. Any moving violation covered above, excluding unlawful

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2012390c1

175 speed, resulting in a crash-4 points.

176 9. Any conviction under s. 403.413(6)(b)-3 points.

177 10. Any conviction under s. 316.0775(2)-4 points.

178 Section 4. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR ELLYN SETNOR
BOGDANOFF**
25th District

COMMITTEES:
Budget - Subcommittee on Finance and Tax,
Chair
Budget
Budget - Subcommittee on Transportation,
Tourism,
and Economic Development
Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:
Administrative Procedures, *Alternating Chair*

November 2, 2011

Senator J.D. Alexander, Chair
Senate Committee on Budget
Room 201, the Capitol
Tallahassee, FL 32399

Re: SB 390, Relating to Bicycle Regulations

Chair Alexander:

I am writing to request that you place **SB 390, Relating to Bicycle Regulations** on the agenda of your Committee on Budget at your earliest convenience.

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

Senator Ellyn Setnor Bogdanoff
Florida Senate - District 25

cc: Terry Rhodes, Staff Director

REPLY TO:

- 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
- 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
- 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
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 Budget Committee

BILL: SB 436
 INTRODUCER: Senator Storms
 SUBJECT: Video Voyeurism
 DATE: February 2, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable
2.	Sneed	Sadberry	BJA	Favorable
3.	Sneed	Rhodes	BC	Favorable
4.				
5.				
6.				

I. Summary:

This bill increases video voyeurism offenses that are currently first degree misdemeanors to third degree felonies, and increases current third degree felony video voyeurism offenses to second degree felonies. It also specifies that the interior of a residential dwelling is a place where a person has a reasonable expectation of privacy.

This bill substantially amends section 810.145, Florida Statutes.

II. Present Situation:

Video Surveillance and Voyeurism

Video voyeurism is the unlawful use of an imaging device to surreptitiously observe another person. The practice is most often associated with a sexual motive, such as using a cell phone camera to take pictures beneath women’s skirts in a shopping area or installing hidden cameras in a changing area.

In 2004, the federal government passed the Video Voyeurism Prevention Act of 2004¹ in order to “protect the privacy of individuals from the surreptitious use of hidden surveillance equipment that captures an individual’s image.”² The Act makes it a misdemeanor for a person to

¹ 18 U.S.C. s. 1801. The Act applies only within the special maritime and territorial jurisdiction of the United States, so does not conflict with state law.

² Kristin M. Beasley, *Up-Skirt and Other Dirt: Why Cell Phone Cameras and Other Technologies Require a New Approach to Protecting Personal Privacy in Public Places*, 31 S. ILL. U. L.J. 69, 88 (2006) (quoting H.R. Rep. No. 08-504, at 5, as reprinted in 2004 U.S.C.C.A.N. 3292, 3294-95).

intentionally capture an image of a private area of another person without his or her consent under circumstances in which the other person has a reasonable expectation of privacy. All states have criminal statutes that address video voyeurism in some form.

Florida's Video Voyeurism Statute

Florida law forbids video voyeurism if a person uses or installs an imaging device to secretly view, broadcast or record another person for "amusement, entertainment, sexual arousal, gratification, or profit," or to degrade or abuse that person. The original s. 810.145, F.S., was enacted in 1984 and created misdemeanor video voyeurism offenses. The statute was amended in 2008 to elevate certain video voyeurism offenses committed against children to felonies.

An offender commits the misdemeanor offense of video voyeurism by:

- Intentionally using or installing an imaging device to secretly view, broadcast, or record a person who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy, for the offender's own amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person.³
- Intentionally permitting the use or installation of an imaging device to secretly view, broadcast, or record a person as stated above, but for the amusement, entertainment, sexual arousal, gratification, or profit of another person.⁴
- Intentionally using an imaging device to secretly view, broadcast, or record under or through another person's clothing in order to view that person's body or undergarments, for the amusement, entertainment, sexual arousal, gratification, or profit of either the offender or another person.⁵
- Committing the offense of "video voyeurism dissemination"⁶ and "commercial video voyeurism dissemination"⁷ for distributing a video or image with knowledge or reason to believe that it was created as a result of video voyeurism.

A first-time violation of any of these provisions is a first-degree misdemeanor, punishable by a term of imprisonment not exceeding one year and a fine of not more than \$1,000. If the offender has previously been convicted of or adjudicated delinquent for any violation of the section, the penalty is enhanced to a third-degree felony, punishable by imprisonment for up to five years and a fine of not more than \$5,000.

There are three felony video voyeurism offenses in addition to those that result from enhancement of the penalty for repeat misdemeanor video voyeurism. Conviction of these offenses requires additional elements of proof:

- Section 810.145(8)(a)1., F.S., applies when the offender was 18 years of age or older, the victim was under the age of 16, and the offender was responsible for the welfare of the

³ Section 810.145(2)(a), F.S.

⁴ Section 810.145(2)(b), F.S.

⁵ Section 810.145(2)(c), F.S.

⁶ Section 810.145(3), F.S.

⁷Section 810.145(4), F.S.

victim. Persons who are responsible for a child's welfare would include coaches, teachers, scout leaders, parents, guardians, babysitters, and those with similar relationships to the child.⁸

- Section 810.145(8)(a)2., F.S., applies when the offender was 18 years old or older, was employed at a public or private K-12 school or a voluntary pre-K program, and the victim was a student at the school or program.
- Section 810.145(8)(a)3., F.S., applies when the offender was 24 years of age or older and the victim was under the age of 16.

These offenses are third-degree felonies, which are punishable by imprisonment for up to five years and a fine of not more than \$5,000. If the offender has previously been convicted of or adjudicated delinquent for any form of video voyeurism, these offenses are second-degree felonies, punishable by imprisonment for up to 15 years and a fine of not more than \$10,000.

The statute includes exceptions to ensure that it does not criminalize legitimate law enforcement surveillance, or security surveillance devices if a notice is posted or if the device is clearly and immediately obvious. There is also an exception for Internet service providers who do not exercise control over user content.⁹

During Fiscal Year 2010-2011, six persons were convicted of misdemeanor video voyeurism¹⁰ and three persons were placed on community supervision as the result of being convicted of felony video voyeurism.¹¹

III. Effect of Proposed Changes:

The bill elevates video voyeurism offenses that are currently first degree misdemeanors to third degree felonies. This means that persons convicted of these offenses could be sentenced to incarceration in state prison or felony community supervision for up to five years.¹² Currently, such offenders can only be sentenced to incarceration in the county jail or misdemeanor probation for up to one year.

The bill also increases current third degree felony video voyeurism offenses to second degree felonies. This increases the maximum sentence from five years to fifteen years in prison, and increases the maximum fine from \$5,000 to \$10,000.

Finally, s. 810.145(1)(c), F.S., currently defines a "place and time when a person has a reasonable expectation of privacy" as:

⁸ See ss. 39.01(46) and 827.01, F.S.; *P.N. v. Dep't of Health & Rehabilitative Servs.*, 562 So. 2d 810, 811 (Fla. 2d DCA 1990).

⁹ Section 810.145(5), F.S.

¹⁰ Information from the Florida Department of Law Enforcement provided to committee staff by the Office of Economic & Demographic Research, e-mail dated November 30, 2011.

¹¹ Department of Corrections Analysis of Senate Bill 436.

¹² The court can also impose a split sentence that includes both incarceration and community supervision up to a total of five years.

“a place and time when a reasonable person would believe that he or she could fully disrobe in privacy, without being concerned that the person’s undressing was being viewed, recorded, or broadcasted by another, including, but not limited to, the interior of a bathroom, changing room, fitting room, dressing room, or tanning booth.”

The bill amends this definition to specifically list the interior of a residential dwelling. Because the definition provides that it is not limited to the listed examples, specific inclusion of the “interior of a residential dwelling” should not change application of the law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) met on December 14, 2011, and determined this bill will have an insignificant impact on the state prison system because of the low volume of offenses addressed in this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial 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 Storms

10-00488-12

2012436__

1 A bill to be entitled
 2 An act relating to video voyeurism; amending s.
 3 810.145, F.S.; revising the definition of the term
 4 "place and time when a person has a reasonable
 5 expectation of privacy" to include the interior of a
 6 residential dwelling; increasing the classification of
 7 specified video voyeurism offenses; amending s.
 8 921.0022, F.S.; ranking a violation of s.
 9 810.145(8)(b), F.S., above its default value for
 10 purposes of the offense severity ranking chart of the
 11 Criminal Punishment Code; providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (c) of subsection (1) and subsections
 16 (6), (7), and (8) of section 810.145, Florida Statutes, are
 17 amended to read:
 18 810.145 Video voyeurism.—
 19 (1) As used in this section, the term:
 20 (c) "Place and time when a person has a reasonable
 21 expectation of privacy" means a place and time when a reasonable
 22 person would believe that he or she could fully disrobe in
 23 privacy, without being concerned that the person's undressing
 24 was being viewed, recorded, or broadcasted by another,
 25 including, but not limited to, the interior of a residential
 26 dwelling, bathroom, changing room, fitting room, dressing room,
 27 or tanning booth.
 28 (6) Except as provided in subsections (7) and (8), a person
 29 who violates this section commits a felony ~~misdemeanor~~ of the

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30 ~~third first~~ degree, punishable as provided in s. 775.082, ~~or~~ s.
 31 775.083, or s. 775.084.
 32 (7) A person who violates this section and who has
 33 previously been convicted of or adjudicated delinquent for any
 34 violation of this section commits a felony of the second ~~third~~
 35 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 36 775.084.
 37 (8) (a) A person who is:
 38 1. Eighteen years of age or older who is responsible for
 39 the welfare of a child younger than 16 years of age, regardless
 40 of whether the person knows or has reason to know the age of the
 41 child, and who commits an offense under this section against
 42 that child;
 43 2. Eighteen years of age or older who is employed at a
 44 private school as defined in s. 1002.01; a school as defined in
 45 s. 1003.01; or a voluntary prekindergarten education program as
 46 described in s. 1002.53(3)(a), (b), or (c) and who commits an
 47 offense under this section against a student of the private
 48 school, school, or voluntary prekindergarten education program;
 49 or
 50 3. Twenty-four years of age or older who commits an offense
 51 under this section against a child younger than 16 years of age,
 52 regardless of whether the person knows or has reason to know the
 53 age of the child
 54
 55 commits a felony of the second ~~third~~ degree, punishable as
 56 provided in s. 775.082, s. 775.083, or s. 775.084.
 57 (b) A person who violates this subsection and who has
 58 previously been convicted of or adjudicated delinquent for any

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 59 violation of this section commits a felony of the second degree,
 60 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

61 Section 2. Paragraph (f) of subsection (3) of section
 62 921.0022, Florida Statutes, is amended to read:
 63 921.0022 Criminal Punishment Code; offense severity ranking
 64 chart.—

65 (3) OFFENSE SEVERITY RANKING CHART

66 (f) LEVEL 6

Florida Statute	Felony Degree	Description
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Knowing forgery of pedigree papers.
499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.

10-00488-12	2012436		
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.	74
784.041	3rd	Felony battery; domestic battery by strangulation.	75
784.048(3)	3rd	Aggravated stalking; credible threat.	76
784.048(5)	3rd	Aggravated stalking of person under 16.	77
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.	78
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.	79
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.	80
784.081(2)	2nd	Aggravated assault on specified official or employee.	81
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.	82
784.083(2)	2nd	Aggravated assault on code inspector.	83
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.	

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84 790.115(2)(d) 2nd Discharging firearm or weapon on school
property.

85 790.161(2) 2nd Make, possess, or throw destructive
device with intent to do bodily harm or
damage property.

86 790.164(1) 2nd False report of deadly explosive, weapon
of mass destruction, or act of arson or
violence to state property.

87 790.19 2nd Shooting or throwing deadly missiles
into dwellings, vessels, or vehicles.

88 794.011(8)(a) 3rd Solicitation of minor to participate in
sexual activity by custodial adult.

89 794.05(1) 2nd Unlawful sexual activity with specified
minor.

90 800.04(5)(d) 3rd Lewd or lascivious molestation; victim
12 years of age or older but less than
16 years; offender less than 18 years.

91 800.04(6)(b) 2nd Lewd or lascivious conduct; offender 18
years of age or older.

92 806.031(2) 2nd Arson resulting in great bodily harm to

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93 firefighter or any other person.

810.02(3)(c) 2nd Burglary of occupied structure; unarmed;
no assault or battery.

94 810.145(8)(b) 2nd Video voyeurism; certain minor victims;
2nd or subsequent offense.

95 812.014(2)(b)1. 2nd Property stolen \$20,000 or more, but
less than \$100,000, grand theft in 2nd
degree.

96 812.014(6) 2nd Theft; property stolen \$3,000 or more;
coordination of others.

97 812.015(9)(a) 2nd Retail theft; property stolen \$300 or
more; second or subsequent conviction.

98 812.015(9)(b) 2nd Retail theft; property stolen \$3,000 or
more; coordination of others.

99 812.13(2)(c) 2nd Robbery, no firearm or other weapon
(strong-arm robbery).

100 817.034(4)(a)1. 1st Communications fraud, value greater than
\$50,000.

101 817.4821(5) 2nd Possess cloning paraphernalia with
intent to create cloned cellular

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

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 telephones.

102 825.102(1) 3rd Abuse of an elderly person or disabled
 adult.

103 825.102(3)(c) 3rd Neglect of an elderly person or disabled
 adult.

104 825.1025(3) 3rd Lewd or lascivious molestation of an
 elderly person or disabled adult.

105 825.103(2)(c) 3rd Exploiting an elderly person or disabled
 adult and property is valued at less
 than \$20,000.

106 827.03(1) 3rd Abuse of a child.

107 827.03(3)(c) 3rd Neglect of a child.

108 827.071(2) & 2nd Use or induce a child in a sexual
 (3) performance, or promote or direct such
 performance.

109 836.05 2nd Threats; extortion.

110 836.10 2nd Written threats to kill or do bodily
 injury.

111 843.12 3rd Aids or assists person to escape.

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112 847.011 3rd Distributing, offering to distribute, or
 possessing with intent to distribute
 obscene materials depicting minors.

113 847.012 3rd Knowingly using a minor in the
 production of materials harmful to
 minors.

114 847.0135(2) 3rd Facilitates sexual conduct of or with a
 minor or the visual depiction of such
 conduct.

115 914.23 2nd Retaliation against a witness, victim,
 or informant, with bodily injury.

116 944.35(3)(a)2. 3rd Committing malicious battery upon or
 inflicting cruel or inhuman treatment on
 an inmate or offender on community
 supervision, resulting in great bodily
 harm.

117 944.40 2nd Escapes.

118 944.46 3rd Harboring, concealing, aiding escaped
 prisoners.

119 944.47(1)(a)5. 2nd Introduction of contraband (firearm,
 weapon, or explosive) into correctional

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10-00488-12

2012436__

facility.

120

951.22(1) 3rd Intoxicating drug, firearm, or weapon
introduced into county facility.

121

122

Section 3. This act shall take effect July 1, 2012.

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 Budget Committee

BILL: SB 532

INTRODUCER: Senators Altman, Gaetz, and Sachs

SUBJECT: College Credit for Military Training and Education Courses

DATE: February 2, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	Favorable
2.	<u>Harkey</u>	<u>deMarsh-Mathues</u>	<u>HE</u>	Favorable
3.	<u>Bryant</u>	<u>Hamon</u>	<u>BHI</u>	Favorable
4.	<u>Bryant</u>	<u>Rhodes</u>	<u>BC</u>	Favorable
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill directs the Board of Governors to adopt regulations and the State Board of Education to adopt rules that enable members of the U.S. Armed Forces to earn academic credit at public postsecondary educational institutions for college-level training and education acquired in the military.

This bill creates section 1004.096, Florida Statutes.

II. Present Situation:

Military service members and veterans represent a growing proportion of the student population within postsecondary institutions. The Post-9/11 Veterans Educational Assistance Act, otherwise known as the Post-9/11 GI Bill, offers an unprecedented level of educational benefits to nearly 2 million individuals nationwide who have served in the U.S. Armed Forces since the attacks of September 11, 2001.¹ As a result of this benefit, the state of Florida and other states have experienced an influx of veterans on college campuses. Nationwide the number of veterans enrolling in college and using the GI Bill has increased to approximately 800,000 in 2010, which represents a 40 percent increase since 2009.²

¹ RAND Corporation. Research Brief. *How Military Veterans Are Using the Post-9/11 GI Bill and Adapting to Life in College* (2010). Available at: http://www.rand.org/pubs/research_briefs/RB9560.html.

² *Vets go from Combat to Campus* by Trevor Hughes, USA Today, April 12, 2011. Available at: http://www.usatoday.com/news/education/2011-04-11-college-vets_N.htm.

Currently, neither the Florida Board of Governors nor the State Board of Education have rules or regulations in place that require or prescribe a process for Florida public educational institutions to award college credit to members of the U.S. Armed Forces based on training and education acquired in the military. Despite the absence of the mandate to do so, evaluating military training and experience for college credit is a common practice among all Florida public higher education institutions. The processes and policies which individual postsecondary institutions have established for the evaluation of military training and experience vary among institutions.

The American Council on Education

Since 1945, the American Council on Education (ACE) has provided a collaborative link between the U. S. Department of Defense and higher education through the review of military training and experiences for the award of equivalent college credits for members of the U.S. Armed Forces.³ In doing so, the ACE maintains the ACE Guide to the Evaluation of Educational Experiences in the Armed Services (ACE Military Guide). The ACE has established a rigid process in evaluating military service school courses to determine the appropriate amount and level of academic credit that should be awarded by postsecondary institutions.⁴

More than 2,200 higher education institutions recognize ACE course credit recommendations for granting credit to their military students.⁵

According to the Board of Governors, state universities recognize ACE requirements when granting course credit as follows:⁶

Institutions consult with and follow the ACE Guide Online to determine how military training and experience might be awarded for equivalent course credit. Military courses that are recommended by the ACE Guide for college credit would be considered first to determine if they meet degree requirements, and second to determine if they can fulfill any electives. Some of the military training involved may be more vocational in nature, such as the Advanced Helicopter Pilot Training 1 course. This course would not be accepted at a state university because there is no equivalent course and it is more vocational in nature than academic credit.

Each branch of service provides transcripts for current and former service members as an official record of military education, training, and experience. Postsecondary institutions using the ACE Military Guide evaluate an individual's military transcript according to the ACE standards for recommended college credit. The following is a break-down of the service-specific transcripts available to current and former service members:

³ Available at: http://www.acenet.edu/AM/Template.cfm?Section=Military_Programs.

⁴ Military courses that are eligible for inclusion in the ACE Military Guide are courses that are conducted for a specified period of time with a prescribed course of instruction, in a structured learning situation, and with qualified instructors.

⁵ ACE College and University Services. Available at: www.acenet.edu and <http://www.acenet.edu/Content/NavigationMenu/ProgramsServices/CCRS/CollegeServices/index.htm>.

⁶ Board of Governor's Legislative Bill Analysis, November 23, 2011, on file with the Committee on Higher Education.

U.S. Army: Army/American Council on Education Registry Transcript System (AARTS)
U.S. Navy/U.S. Marine Corps: Sailor/Marine American Council on Education Registry Transcript (SMART)
U.S. Air Force: Community College of the Air Force (CCAF)
U.S. Coast Guard: U.S. Coast Guard Institute (CGI)⁷

Servicemembers Opportunity Colleges Consortium

The Servicemembers Opportunity Colleges (SOC)⁸ was created in 1972 to provide educational opportunities to service members who, because they frequently moved from place to place, had trouble completing college degrees.⁹ The SOC supports a consortium of approximately 1,900 colleges and universities pledged to support the higher education needs of military personnel. SOC works with civilian and military educators to overcome obstacles associated with gaining a college education when pursued through traditional means.

Among the SOC Consortium key goals is the award of credit for military training and experience. All SOC Consortium institutions provide processes to determine credit awards and learning acquired for specialized military training and occupational experience when applicable to a service member's degree program. In doing so, SOC Consortium members recognize and use the ACE Military Guide in evaluating and awarding academic credit for military training and experience. Other key features of the SOC Consortium include:

- Reasonable Transfer of Credit;
- Reduced Academic Residency; and
- Credit for Nationally-Recognized Testing Programs.¹⁰

Florida has a high representation within the SOC Consortium in that 25 of the 28 Florida College System institutions and 9 of the 11 State University System institutions are members.¹¹

III. Effect of Proposed Changes:

This bill creates s. 1004.096, F.S., to require the Board of Governors to adopt regulations and the State Board of Education to adopt rules to provide guidance to their respective institutions regarding procedures for military credential evaluation and the award of college credit for military training and education.

⁷ ACE. *A Transfer Guide: Understanding Your Military Transcripts and ACE Credit Recommendations*. pp. 11-14. (August 2011). Available at:

http://www.acenet.edu/Content/NavigationMenu/ProgramsServices/MilitaryPrograms/TransferGuide_Updated2011.pdf.

⁸ SOC is funded by the Department of Defense (DoD) through a contract with the American Association of State Colleges and Universities (AASCU). The contract is managed for DoD by the Defense Activity for Non-Traditional Education Support (DANTES).

⁹ For more information, see SOC homepage at: <http://www.soc.aascu.org/>.

¹⁰ Information in this paragraph obtained from the *SOC Principles and Criteria* website, available at: <http://www.soc.aascu.org/socconsortium/socPrinCriteria.html>.

¹¹ For a comprehensive list of SOC consortium membership, see http://www.soc.aascu.org/pubfiles/socmisc/SOCConsort_Schools.pdf.

The procedures must include equivalency and alignment of military coursework with appropriate college courses, course descriptions, type and amount of college credit that may be awarded, and transfer of credit.

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:

Students who are either members of the U.S. Armed Forces or who are veterans will have their college-level training evaluated and be provided equivalent college credit as appropriate. To the extent a student with military training earns college credit for such training, the cost to the student to complete a postsecondary degree may decrease.

C. Government Sector Impact:

The Board of Governors notes no fiscal impact to the state universities as a result of this bill.¹² The expected fiscal impact on the state colleges and the State Board of Education is insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹² Board of Governors 2012 Legislative Bill Analysis, November 23, 2011, on file with the Committee on Higher Education.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial 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 Altman

24-00560-12

2012532__

A bill to be entitled

An act relating to college credit for military training and education courses; creating s. 1004.096, F.S.; requiring the Board of Governors of the State University System and the State Board of Education to adopt regulations and rules, respectively, which enable United States Armed Forces servicemembers to earn college credit for college-level training and education acquired in the military; providing an effective date.

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

Section 1. Section 1004.096, Florida Statutes, is created to read:

1004.096 College credit for military training and education courses.-The Board of Governors shall adopt regulations and the State Board of Education shall adopt rules that enable eligible members of the United States Armed Forces to earn academic college credit at public postsecondary educational institutions for college-level training and education acquired in the military. The regulations and rules shall include procedures for credential evaluation and the award of academic college credit, including, but not limited to, equivalency and alignment of military coursework with appropriate college courses, course descriptions, type and amount of college credit that may be awarded, and transfer of credit.

Section 2. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-12

Meeting Date

Topic Veterans College Credit

Bill Number 532

(if applicable)

Name Jim Brodie

Amendment Barcode _____

(if applicable)

Job Title LEGISLATIVE + CABINET DIRECTOR

Address _____

Phone _____

Street

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing FL Dept Veterans Affairs

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 Budget Committee

BILL: SB 638

INTRODUCER: Senator Hays

SUBJECT: Florida Motor Vehicle Theft Prevention Authority

DATE: February 2, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jenkins	Roberts	GO	Favorable
2.	Cellon	Cannon	CJ	Favorable
3.	Carey/Smith	Meyer, R.	BTA	Favorable
4.	Carey/Smith	Rhodes	BC	Favorable
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill eliminates obsolete provisions relating to the Florida Motor Vehicle Theft Prevention Authority.

This bill substantially amends section 713.78, Florida Statutes

The bill repeals the following sections of the Florida Statutes: 860.151, 860.152, 860.153, 860.154, 860.155, 860.156, 860.157, and 860.158.

II. Present Situation:

In 1992, the Legislature created the Florida Motor Vehicle Theft Prevention Act (act).¹ The purpose of the act was to prevent, combat, and reduce motor vehicle theft in Florida, and to improve and support the law enforcement, prosecution, and administration of motor vehicle theft laws.² The act also established the Florida Motor Vehicle Theft Prevention Authority (authority), within the Department of Legal Affairs.³

Powers and Duties of the Authority

The powers and duties of the authority include:

¹ Chapter 1992-145, L.O.F.

² Section 860.152, F.S.

³ Section 860.154, F.S.

- Applying for, soliciting, receiving, establishing priorities for, allocating, disbursing, contracting for, and spending funds that are made available to the authority from any source to effectuate the purposes of the act;
- Assessing the scope of the problem of motor vehicle theft;
- Developing and sponsoring the implementation of statewide plans and strategies to combat motor vehicle theft and to improve the administration of the motor vehicle theft laws and provide an effective forum for identification of critical problems associated with motor vehicle theft;
- Coordinating the development, adoption, and implementation of plans and strategies relating to interagency or intergovernmental cooperation with respect to motor vehicle theft law enforcement; and
- Providing an annual report on the activities of the authority to specified entities.⁴

Membership of the Authority

The powers and duties of the authority are vested in and exercised by a Board of Directors (board), established within the authority, which includes the following members:

- The Chief Financial Officer or his or her designee;
- The executive director of the Department of Highway Safety and Motor Vehicles;
- The executive director of the Department of Law Enforcement; and
- Six additional members, each of whom are appointed by the Attorney General as follows: a state attorney or city or county executive, a chief executive law enforcement official, a sheriff, one representative of companies authorized to sell motor vehicle insurance, one representative of insurers authorized to write motor vehicle insurance in this state, and one representative of purchasers of motor vehicle insurance in this state who is not employed by or connected with the business of insurance.⁵

Florida Motor Vehicle Theft Prevention Trust Fund

In addition to the authority, the act created the Florida Motor Vehicle Theft Prevention Trust Fund (trust fund).⁶ The trust fund was funded pursuant to s. 320.08046, F.S., which appropriated 18 percent of a one dollar license tax⁷ surcharge (vehicle registration fee) to the trust fund.⁸ Trust fund dollars were required to be used to:

- Pay the authority's cost to administer the board and the trust fund; and
- Achieve the purposes and objectives of the act.⁹

⁴ Section 860.157, F.S.

⁵ Section 860.154, F.S.

⁶ Chapter 1992-145, L.O.F.

⁷ See section 320.08, F.S.

⁸ In 1992, s. 320.08045, F.S., imposed a 50 cent surcharge on each license tax, which was deposited into the Trust Fund. This statute was repealed in 1995. That same year, s. 320.08046, F.S., was amended to revise the surcharge on license taxes and to provide guidelines for surcharge distribution to the Trust Fund. See ch. 1992-145, L.O.F., and ch. 1995-267, L.O.F.

⁹ Chapter 1992-145, L.O.F.

In 2003, the Legislature terminated the trust fund and amended s. 320.08046, F.S., to remove the language appropriating 18 percent of the license tax surcharge to the trust fund.¹⁰ As a result, the authority has not been funded since 2003.¹¹ According to the Office of the Attorney General (office), the office has not administered the authority since funding was eliminated. However, statutes relating to the authority still exist, despite the program not being operational.

Auto theft is much less prevalent today than it was in 1992 when the Florida Motor Vehicle Theft Prevention Authority was established.¹² The Florida Department of Law Enforcement reports that the occurrence of auto theft in Florida has decreased by nearly 50 percent since 2003, when the authority stopped operating.¹³

III. Effect of Proposed Changes:

The bill repeals statutes relating to the Florida Motor Vehicle Theft Prevention Authority. Specifically, the bill repeals the following provisions:

- Section 860.151, F.S., (Short title);
- Section 860.152, F.S., (Purpose);
- Section 860.153, F.S., (Definitions);
- Section 860.154, F.S., (Florida Motor Vehicle Theft Prevention Authority);
- Section 860.155, F.S., (Compensation of members);
- Section 860.156, F.S., (Personnel);
- Section 860.157, F.S., (Powers and duties of the authority); and
- Section 860.158, F.S., (Florida Motor Vehicle Theft Prevention Authority Expenditures).

The bill also makes a conforming change to s. 713.78, F.S., relating to liens for recovering, towing, or storing vehicles and vessels, to delete a reference to s. 860.158, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ Chapter 2003-179, L.O.F.

¹¹ Verified by Senate Budget Subcommittee on Criminal and Civil Justice Appropriations.

¹² There were 105,553 auto theft incidents reported in 1992, compared to 41,433 in 2010. *See* Florida Statistical Analysis Center: FDLE (1989-2010), Crime in Florida, Florida Uniform Crime Report.

¹³ There were 81,536 auto theft incidents reported in 2003. *Id.*

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. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Hays

20-00644-12

2012638__

1 A bill to be entitled
 2 An act relating to the Florida Motor Vehicle Theft
 3 Prevention Authority; repealing ss. 860.151, 860.152,
 4 860.153, 860.154, 860.155, 860.156, 860.157, and
 5 860.158, F.S., relating to the Florida Motor Vehicle
 6 Theft Prevention Authority; repealing provisions
 7 relating to a short title, purpose, definitions,
 8 establishment, compensation of members, personnel,
 9 powers and duties, and expenditures; amending s.
 10 713.78, F.S.; conforming a cross-reference; providing
 11 an effective date.

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

14
 15 Section 1. Sections 860.151, 860.152, 860.153, 860.154,
 16 860.155, 860.156, 860.157, and 860.158, Florida Statutes, are
 17 repealed.

18 Section 2. Paragraph (e) of subsection (13) of section
 19 713.78, Florida Statutes, is amended to read:
 20 713.78 Liens for recovering, towing, or storing vehicles
 21 and vessels.—

22 (13)
 23 (e) When a wrecker operator files a notice of wrecker
 24 operator's lien under this subsection, the department shall
 25 charge the wrecker operator a fee of \$2, which shall be
 26 deposited into the General Revenue Fund ~~established under s.~~
 27 ~~860.158~~. A service charge of \$2.50 shall be collected and
 28 retained by the tax collector who processes a notice of wrecker
 29 operator's lien.

Page 1 of 2

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

20-00644-12

2012638__

30 Section 3. This act shall take effect July 1, 2012.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government
Appropriations, Chair
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education
Appropriations
Children, Families, and Elder Affairs
Reapportionment

SENATOR D. ALAN HAYS
20th District

January 25, 2012

Senator J.D. Alexander, Chair
Budget Committee
412 Senate Office Building
210 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

RE: SB 638 Relating to Florida Motor Vehicle Theft Prevention Authority

Dear Chair Alexander,

I respectfully request my above bill be heard before your committee. I feel this bill will benefit the citizens of our state.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

[Handwritten signature of D. Alan Hays]

D. Alan Hays, DMD
Senate District 20

CC: Terry Rhodes, Staff Director
Ann Roberts, Committee Administrative Assistant
Alicia Weiss, Committee Administrative Assistant

SENATE APPROPRIATIONS RECEIVED
12 JAN 25 PM 12: 07
SENT TO: CHAIRMAN
STAFF DIR. STAFF

REPLY TO:
871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
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 Budget Committee

BILL: SB 792

INTRODUCER: Senator Gaetz and others

SUBJECT: Financial Institutions

DATE: February 2, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	Favorable
2.	Howard	DeLoach	BGA	Favorable
3.	Howard	Rhodes	BC	Favorable
4.				
5.				
6.				

I. Summary:

This bill codifies into state law the federal requirement that all state financial institutions certify that they have adopted policies, procedures, and controls, in accordance with promulgated rules established by the Office of Financial Regulation (OFR), to detect and assure the financial institution does not knowingly maintain any correspondent accounts or payable-through accounts with any financial institution that does business with Iran or any other terrorist organization designated by the U.S. Government. The bill mandates new reporting requirements upon all state chartered financial institutions as well as the OFR. The bill further authorizes the OFR to impose civil penalties of \$100,000 against any state chartered financial institution that is in noncompliance with the annual reporting requirement.

The bill has no fiscal impact to the Office of Financial Regulation. The OFR will adopt rules establishing minimum standards for due diligence procedures by July 1, 2012, make annual compliance report available on its website, and submit an annual report to the Governor, the President of the Senate, and the Speaker of the House by January 2013 with existing resources.

Noncompliance with the certification reporting requirements could subject Florida State-chartered financial institutions to civil penalties. Federally chartered financial institutions and out-of-state chartered financial institutions doing business in Florida will not be subject to the bill's requirements.

This bill creates an undesignated section of Florida statutes.

II. Present Situation:

As a result of Iran's support for international terrorism and its aggressive actions against non-belligerent shipping in the Persian Gulf, President Reagan issued Executive Order 12613,¹ imposing a new import embargo on Iranian-origin goods and services. Section 505 of the International Security and Development Cooperation Act of 1985 was utilized as the statutory authority for the embargo, which gave rise to the Iranian Transactions Regulations.²

In 1995, as a result of Iranian support of international terrorism and Iran's active pursuit of weapons of mass destruction, President Clinton issued Executive Order 12957³ prohibiting U.S. involvement with any petroleum development in Iran. Later that year, President Clinton issued Executive Order 12959,⁴ substantially tightening the U.S.'s sanctions against Iran. In 1997, President Clinton signed Executive Order 13059,⁵ prohibiting virtually all trade and investment activities with Iran by all U.S. Citizens.

On July 1, 2010, President Obama signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA).⁶ The CISADA requires the Secretary of the Treasury to prohibit or restrict the opening or maintaining in the U.S. of a correspondent or payable-through account by a foreign financial institution if that institution knowingly:

- Facilitates Iranian government, including the Iran's Revolutionary Guard Corps (IRGC), efforts to acquire weapons of mass destruction (WMD) or to support international terrorism;
- Engages in dealings with Iranian persons sanctioned by the Security Council;
- Engages in money laundering or facilitates Central Bank of Iran efforts to aid Iran's WMD programs, to support Iran's sponsorship of terrorism, or to support persons under Security Council sanction; or
- Conducts significant business with the IRGC, its affiliates, or financial institutions whose property or interests are blocked pursuant to the International Emergency Economic Powers Act.

The CISADA directs the Secretary of the Treasury to prohibit any person owned or controlled by a domestic financial institution from knowingly engaging in a transaction with or benefiting the IRGC or its affiliates whose property or interests are blocked pursuant to the International Emergency Economic Powers Act and applies specified penalties under the International Emergency Economic Powers Act to a domestic financial institution if:

- A person owned or controlled by the institution violates or attempts to violate such provisions; and
- The institution knew or should have known of such activity.

¹ Executive Order 12613, October 29, 1987.

² Title 31, Part 560 of the U.S. Code of Federal Regulations.

³ Executive Order 12957, March 16, 1995.

⁴ Executive Order 12959, May 6, 1995.

⁵ Executive Order 13059, August 19, 1997.

⁶ Pub. L. 111-195.

In addition, the CISADA directs the Secretary of the Treasury to require a domestic financial institution maintaining a correspondent account or payable-through account in the U.S. for a foreign financial institution to do one or more of the following:

- Perform an audit of activities that may be carried out by the foreign financial institution;
- Report to the Department of the Treasury regarding transactions provided with any sanctioned activity;
- Certify that the foreign financial institution is not knowingly engaging in any such sanctioned activity; and
- Establish due diligence policies designed to detect whether the foreign financial institution has engaged in sanctioned activity.

Lastly, the act applies specified penalties to persons that violate such provisions and authorizes the Secretary of the Treasury to waive such prohibitions for purposes of U.S. national interest.

Currently, all Florida state chartered financial institutions must comply with the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) and the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) regulations and the promulgated federal Iranian sanctions.

The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the U.S.. The OFAC acts under presidential national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under U.S. jurisdiction. Many of the sanctions are based on United Nations and other international mandates, are multilateral in scope, and involve close cooperation with allied governments.

The mission of the FinCEN is to enhance U.S. national security, deter and detect criminal activity, and safeguard financial systems from abuse by promoting transparency in the U.S. and international financial systems.

The bank examination processes, by both state and federal examiners, includes procedures for examining and assessing a financial institution's policies, procedures, and processes for ensuring compliance with the federal regulatory requirements and sanctions. As part of the scoping and planning procedures, examiners must review the bank's OFAC risk assessment and independent testing to determine the extent to which a review of the bank's OFAC compliance program should be conducted during the examination. The effectiveness of the examination process is heightened due to the existence of information sharing agreements between state and federal banking regulators with both the OFAC and the FinCEN. As a result, under present law the type of banking transactions being targeted by the bill are scrutinized and subject to federal laws, pursuant to state law based upon safety and soundness grounds or in the alternative based upon the Florida Control of Money Laundering provisions of Section 655.50, F.S.

III. Effect of Proposed Changes:

SB 792 requires the Office of Financial Regulation to adopt rules establishing minimum standards that all state chartered financial institutions must adopt to detect whether any correspondent accounts or a payable-through accounts with a foreign financial institution are knowingly:

- Facilitating the efforts of the Iranian Government to develop weapons of mass destruction;
- Providing support to a foreign terrorist organization;
- Facilitating the activities of a person who is subject to financial sanctions by a United Nations Security Council's Iranian sanction resolutions;
- Engaging in related money laundering activity;
- Facilitating efforts by Iranian financial institutions to carry out prohibited activities; or
- Facilitating a significant transaction or providing significant financial services to an entity whose property interests are blocked pursuant to federal law associated with Iran's proliferation of weapons of mass destruction or support for international terrorism.

The bill requires the OFR to submit an annual report to the Governor and the Legislature as well as post the report on the Department of Financial Services' website. The bill also authorizes the OFR to impose a \$100,000 civil penalty against any state chartered financial institution that fails to comply with the annual reporting requirement.

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:

The bill adopts Federal laws and regulations that change frequently. Any future changes to the federal requirements after the bill were to become law would have to be readdressed by the legislature.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Federally chartered financial institutions and out-of-state chartered financial institutions doing business in Florida will not be subject to the bill's requirements. Noncompliance with the reporting requirements will subject Florida state chartered financial institutions to a \$100,000 civil penalty. In addition, there could be compliance costs that only state chartered financial institution would be subject to.

C. Government Sector Impact:

This will create additional regulatory costs for the Office of Financial Regulation associated with adopting rules establishing minimum standards for due diligence procedures by July 1, 2012, making annual compliance reports available on its website, and submitting an annual report to the Governor, the President of the Senate, and the Speaker of the House by January 2013. The OFR will be able to implement these changes using existing resources.

VI. Technical Deficiencies:

The Financial Services Commission is the authority through which rules are adopted for the Office of Financial Regulation.

VII. Related Issues:

Because the OFR has direct jurisdiction over financial institutions, the posting of the compliance report could be placed on the OFR's website, rather than, or in addition to, the Department of Financial Services' website.

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

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

None.

B. Amendments:

None.

By Senators Gaetz and Rich

4-00649-12

2012792__

1 A bill to be entitled
 2 An act relating to financial institutions; providing
 3 definitions; requiring a financial institution that is
 4 chartered in this state and that maintains certain
 5 accounts with a foreign financial institution to
 6 establish due diligence policies, procedures, and
 7 controls reasonably designed to detect whether the
 8 foreign financial institution engages in certain
 9 activities facilitating the development of weapons of
 10 mass destruction by the Government of Iran, provides
 11 support for certain foreign terrorist organizations,
 12 or participates in other related activities; requiring
 13 the Office of Financial Regulation to adopt rules
 14 establishing minimum standards for the due diligence
 15 policies, procedures, and controls; requiring a
 16 financial institution chartered in this state to
 17 annually file a compliance certificate with the Office
 18 of Financial Regulation; requiring the Office of
 19 Financial Regulation to submit an annual report
 20 relating to its rules and certifications from
 21 financial institutions to the Governor, the President
 22 of the Senate, and the Speaker of the House of
 23 Representatives; requiring the Office of the Chief
 24 Financial Officer to make the annual report available
 25 to the public on its website; authorizing the Office
 26 of Financial Regulation to impose a civil penalty
 27 against a financial institution that fails to make the
 28 annual certification required by the act; providing an
 29 effective date.

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4-00649-12

2012792__

30
 31 WHEREAS, the United States Congress passed, and President
 32 Obama signed into law, the Comprehensive Iran Sanctions,
 33 Accountability, and Divestment Act of 2010, and
 34 WHEREAS, the Comprehensive Iran Sanctions, Accountability,
 35 and Divestment Act of 2010 prohibits or strictly limits any
 36 foreign financial institution's ability to open or maintain a
 37 correspondent account or a payable-through account with American
 38 financial institutions if the United States Secretary of the
 39 Treasury determines that the foreign financial institution
 40 knowingly engages in certain activities facilitating the
 41 development of weapons of mass destruction by the Government of
 42 Iran, provides support for certain foreign terrorist
 43 organizations, or participates in other related activities, and
 44 WHEREAS, the Comprehensive Iran Sanctions, Accountability,
 45 and Divestment Act of 2010 imposes civil and criminal penalties
 46 against financial institutions based in the United States which
 47 know or should know that they are maintaining a correspondent
 48 account or a payable-through account with a foreign financial
 49 institution that engages in prohibited activities, and
 50 WHEREAS, it is a sensible fiduciary responsibility of
 51 financial institutions chartered in the State of Florida to know
 52 the activities of foreign financial institutions with which they
 53 maintain correspondent or payable-through accounts, NOW,
 54 THEREFORE,
 55
 56 Be It Enacted by the Legislature of the State of Florida:
 57
 58 Section 1. Financial institutions; transactions relating to

Page 2 of 5

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2012792__

59 Iran or terrorism.

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

61 (a) "Correspondent account" has the same meaning as defined
62 in 31 U.S.C. s. 5318A.

63 (b) "Financial institution" has the same meaning as defined
64 in s. 655.005(1)(i), Florida Statutes.

65 (c) "Payable-through account" has the same meaning as
66 defined in 31 U.S.C. s. 5318A.

67 (2) A financial institution chartered in this state which
68 maintains a correspondent account or a payable-through account
69 with a foreign financial institution must establish due
70 diligence policies, procedures, and controls reasonably designed
71 to detect whether the United States Secretary of the Treasury
72 has found that the foreign financial institution knowingly:

73 (a) Facilitates the efforts of the Government of Iran,
74 including efforts of Iran's Revolutionary Guard Corps, to
75 acquire or develop weapons of mass destruction or their delivery
76 systems;

77 (b) Provides support for an organization designated by the
78 United States as a foreign terrorist organization;

79 (c) Facilitates the activities of a person who is subject
80 to financial sanctions pursuant to a resolution of the United
81 Nations Security Council imposing sanctions on Iran;

82 (d) Engages in money laundering to carry out any activity
83 listed in this subsection;

84 (e) Facilitates efforts by the Central Bank of Iran or any
85 other Iranian financial institution to carry out an activity
86 listed in this subsection; or

87 (f) Facilitates a significant transaction or provides

4-00649-12

2012792__

88 significant financial services for Iran's Revolutionary Guard
89 Corps or its agents or affiliates, or any financial institution,
90 whose property or interests in property are blocked pursuant to
91 federal law in connection with Iran's proliferation of weapons
92 of mass destruction, or delivery systems for those weapons, or
93 Iran's support for international terrorism.

94 (3) By July 1, 2012, the Office of Financial Regulation
95 shall adopt rules establishing minimum standards for due
96 diligence policies, procedures, and controls required by this
97 section.

98 (4) By January 1, 2013, and each January 1 thereafter, each
99 financial institution chartered in this state must certify to
100 the Office of Financial Regulation that the financial
101 institution has adopted and substantially complies with its due
102 diligence policies, procedures, and controls required by this
103 section and the rules of the Office of Financial Regulation, and
104 that to the best knowledge of the financial institution, the
105 financial institution does not maintain a correspondent account
106 or a payable-through account with a foreign financial
107 institution that knowingly engages in any act described in
108 subsection (2).

109 (5) By January 31, 2013, and each January 31 thereafter,
110 the Office of Financial Regulation must submit a report to the
111 Governor, the President of the Senate, and the Speaker of the
112 House of Representatives which contains a copy of the rules
113 required under subsection (2) and the status of the
114 certifications of compliance received from the financial
115 institutions chartered in this state.

116 (6) The Office of the Chief Financial Officer shall make

4-00649-12

2012792__

117 its annual compliance report under this section available on its
118 website.

119 (7) The Office of Financial Regulation may impose a civil
120 penalty, not to exceed \$100,000 per occurrence, against a
121 financial institution that fails to make the annual
122 certification required under subsection (4).

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/SB 800

INTRODUCER: Senator Negron

SUBJECT: County Boundary Lines

DATE: February 2, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.	Fournier	Diez-Arguelles	BFT	Fav/CS
3.	Fournier	Rhodes	BC	Favorable
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill moves a 129-acre area from the jurisdiction of St. Lucie County to Martin County. The bill substantially amends sections 7.43 and 7.59 of the Florida Statutes. It provides for the transfer of all public roads and rights-of-ways within the transferred area to be transferred to Martin County, requires the governing bodies of the affected counties to enter into an interlocal agreement for transferring services, buildings, infrastructure, waterways, and employees. It provides for revenue raised from the transferred land to be shifted to Martin County over a 5 year period, and it requires that the transfer be made subject to approval of the affected voters in a referendum.

II. Present Situation:

History of Counties in Florida

While the provisional government and territorial councils provided for county forms of government in Florida, counties did not receive constitutional status until 1861. The Constitution of 1885 first recognized counties as legal subdivisions of the state. In addition, the Legislature

was granted the power to create new counties and alter county boundaries.¹ Gilchrist County was created in 1925 as the last of Florida's current 67 counties.²

The revised State Constitution of 1968 amended the provision in the 1885 Constitution relating to county formation. Section 1(a), Art. VIII of the State Constitution of 1968, states:

The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment and apportionment of the public debt.

Chapter 7, F.S., provides the boundary lines for Florida's 67 counties. Chapter 125, F.S., outlines the powers and duties of counties.

County boundary changes of the past 25 years include those involving:

- Franklin and Wakulla counties in 1986,³
- Escambia and Santa Rosa counties in 1991,⁴
- Citrus and Levy counties in 1994,⁵ and
- Broward and Palm Beach counties in 2007⁶

Beau Rivage

The 129 acres that are the subject of this bill are known as Beau Rivage which abuts the north fork of the St. Lucie River in St. Lucie County. The area currently features 223 single family homes and 27 vacant lots and is divided into six subdivisions.⁷ Although part of St. Lucie County physically, the area is not directly connected to the rest of the county by a county-owned or maintained right-of-way. Access is via Britt Road from U.S. 1 in Martin County. Beau Rivage's 550-plus residents all have Stuart, Florida, addresses.

By interlocal agreement between the St. Lucie County School Board and the Martin County School Board, students residing in Beau Rivage may attend schools located in Martin County. There is also a mutual aid agreement in place between the St. Lucie County Fire District and Martin County Fire Rescue. All properties within Beau Rivage are served by septic tanks and wells.

¹ Economic Affairs Committee, The Florida House of Representatives, *Local Government Formation Manual, 2010-2011*, <http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2605&Session=2011&DocumentType=General%20Publications&FileName=Local%20Government%20Formation%20Manual%202010-202011.pdf>.

² See *id.* citing Allen Morris, *The Florida Handbook 1993-1994*, (Tallahassee, Florida: The Peninsular Publishing Company, 1993), pp. 416-418.

³ Chapter 86-288, Laws of Fla.

⁴ Chapter 91-310, Laws of Fla.

⁵ Chapter 94-313, Laws of Fla.

⁶ Chapter 2007-222, Laws of Fla.

⁷ E-mail from Audrey Jackson, Governmental Affairs Manager, St. Lucie County Property Appraiser's Office, (Dec. 20, 2011) (on file with the Senate Committee on Community Affairs). The six subdivisions are Bay Colony, Beau Rivage, Blair, Eventide, Howard Creek Estates, and The Plantations.

III. Effect of Proposed Changes:

Section 1 amends s. 7.43, F.S., to expand the boundary lines of Martin County to include an additional 129 acres.

Section 2 amends s. 7.59, F.S., to contract the boundary lines of St. Lucie County to remove 129 acres.

Section 3 provides for the transfer of all public roads and rights-of-way within the transferred area to be transferred to Martin County.

Section 4 requires the governing bodies of the affected counties to enter into an interlocal agreement for transferring services, buildings, infrastructure, waterways, and employees. It provides for revenue raised from the transferred land to be shifted to Martin County over a 5 year period

Section 5 provides that this act shall take effect only upon its approval by the affected voters in a referendum.

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:

Residents in the Beau Rivage area may experience changes in emergency response times. These residents would be subject to Martin County taxing authorities rather than St. Lucie County taxing authorities.

C. Government Sector Impact:

Martin County and St. Lucie County will experience corresponding increases or decreases to their tax bases over a 5-year period. According to the St. Lucie County

Property Appraiser's Office, the 2011 taxable value of the Beau Rivage area is \$59,549,039.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Budget Subcommittee on Finance and Tax on January 24, 2012:

- Transfers public roads and rights-of-way within the transferred area from St. Lucie County to Martin County.
- Requires the governing bodies of the affected counties to enter into an interlocal agreement, and provides for a gradual transfer of revenue generated by the transferred property.
- Requires the transfer to be approved by the affected voters in a referendum.

B. Amendments:

None.

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

⁸ On file with the Senate Committee on Community Affairs.

By the Committee on Budget Subcommittee on Finance and Tax; and
Senator Negron

593-02257-12

2012800c1

1 A bill to be entitled
2 An act relating to county boundary lines; amending s.
3 7.43, F.S.; incorporating a portion of St. Lucie
4 County into Martin County; revising the legal
5 description of Martin County; amending s. 7.59, F.S.;
6 revising the legal description of St. Lucie County, to
7 conform; transferring certain roads and associated
8 rights-of-way; requiring that St. Lucie County and
9 Martin County enter into an interlocal agreement that
10 provides for a feasible plan for the transfer of
11 county services, buildings, infrastructure, waterways,
12 and employees and for the transfer of income generated
13 from the area transferred by a time certain; limiting
14 the annual loss of revenue from the transferred land;
15 providing that the transfer is contingent upon
16 approval of a referendum by the qualified electors
17 residing in the area being transferred from St. Lucie
18 County to Martin County; providing effective dates.

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

21
22 Section 1. Section 7.43, Florida Statutes, is amended to
23 read:

24 7.43 Martin County.—The boundary lines of Martin County are
25 as follows: Beginning at the northwest corner of township
26 thirty-eight south, range thirty-seven east; thence east,
27 concurrent with the south boundary line of St. Lucie County, to
28 the southwest corner of section thirty-one, township thirty-
29 seven south, range forty-one east; thence north on the west line

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

593-02257-12

2012800c1

30 of said section thirty-one and section thirty, township thirty-
31 seven south, range forty-one east, 6,459 feet to a point lying
32 within the water body of the north fork of the St. Lucie River;
33 thence departing said line within the north fork of the St.
34 Lucie River a bearing direction of 41 degrees north, 4 minutes
35 west, a distance of 6,155 feet, more or less, to a point lying
36 within the water body of the north fork of the St. Lucie River;
37 thence departing said point a bearing direction of 45 degrees
38 north, 16 minutes east, a distance of 2,355 feet, more or less,
39 to a point intersecting with the south shore of the north fork
40 of the St. Lucie River and the west edge of the Howard Creek as
41 concurrent with the City of Port St. Lucie municipal boundary
42 limits; thence departing said intersecting shore and edge lines
43 following along the City of Port St. Lucie municipal boundary
44 line north along the west edge of Howard Creek to the south line
45 of the northeast quarter of section twenty-four, township
46 thirty-seven south, range forty east; thence east along said
47 south line of the northeast quarter to the intersection of the
48 east 924.15 feet of section twenty-four, township thirty-seven
49 south, range forty east; thence north along said east 924.15-
50 foot line of section twenty-four, township thirty-seven south,
51 range forty east, to the intersection of the north line of the
52 south 508.15 feet of the northeast quarter of section twenty-
53 four, township thirty-seven south, range forty east; thence east
54 along said south 508.15-foot line of the northeast quarter of
55 said section twenty-four, township thirty-seven south, range
56 forty east, to an intersection with the west line of township
57 thirty-seven south, range forty-one east, also being the
58 existing Martin County boundary line; thence north concurrent

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593-02257-12 2012800c1

59 with the Martin County boundary line, along the west line of
 60 sections nineteen and eighteen, township thirty-seven south,
 61 range forty-one east, ~~other sections~~ to the northwest corner of
 62 section eighteen, township thirty-seven south, range forty-one
 63 east; thence east on the north line of said section eighteen and
 64 other sections to the waters of the Atlantic Ocean; thence
 65 easterly to the eastern boundary of the State of Florida; thence
 66 southward along the coast, including the waters of the Atlantic
 67 Ocean within the jurisdiction of the State of Florida, to the
 68 south line of section twenty, township forty south, range forty-
 69 three east, produced easterly; thence west on the south line of
 70 said section twenty, and other sections, to the southwest corner
 71 of section twenty-two, township forty south, range forty-two
 72 east; thence south on the east line of section twenty-eight,
 73 township forty south, range forty-two east, to the southeast
 74 corner of said section twenty-eight; thence west on the south
 75 line of said section twenty-eight and other sections to the east
 76 shore of Lake Okeechobee; thence continue west in a straight
 77 course to the northeast corner of section thirty-six, township
 78 forty south, range thirty-four east, being the southwest corner
 79 of section thirty, township forty south, range thirty-five east;
 80 thence northeasterly in a straight course to the line of normal
 81 water level on the boundary of Lake Okeechobee at its
 82 intersection with the line dividing ranges thirty-six and
 83 thirty-seven east, township thirty-eight south; thence north on
 84 said range line to the place of beginning.

85 Section 2. Section 7.59, Florida Statutes, is amended to
 86 read:

87 7.59 St. Lucie County.—The boundary lines of St. Lucie

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

593-02257-12 2012800c1

88 County are as follows: Beginning on the eastern boundary of the
 89 State of Florida at a point where the north section line of
 90 section thirteen, township thirty-seven south, range forty-one
 91 east, produced easterly, would intersect the same; thence
 92 westerly on the north line of said section and other sections to
 93 the northwest corner of section eighteen, township thirty-seven
 94 south, range forty-one east; thence south along the range line
 95 between ranges forty east and forty-one east which is concurrent
 96 with the St. Lucie County and Martin County boundary lines to
 97 the intersection with the north line of the south 508.15 feet of
 98 the northeast quarter of section twenty-four, township thirty-
 99 seven south, range forty east; thence west along the south
 100 508.15-foot line of the northeast quarter of section twenty-
 101 four, township thirty-seven south, range forty east and
 102 concurrent with the municipal boundary line of the City of Port
 103 St. Lucie to the intersection of the east 924.15-foot line of
 104 section twenty-four, township thirty-seven south, range forty
 105 east; thence south along the east 924.15-foot line of section
 106 twenty-four, township thirty-seven south, range forty east and
 107 continuing along the municipal boundary line of the City of Port
 108 St. Lucie, to the intersection of the south line of the
 109 northeast quarter of section twenty-four, township thirty-seven
 110 south, range forty east; thence west along the south line of the
 111 northeast quarter of section twenty-four, township thirty-seven
 112 south, range forty east to the intersection with the west edge
 113 of Howard Creek; thence southerly and along with the west edge
 114 of Howard Creek being concurrent with the municipal boundary
 115 line of the City of Port St. Lucie to the intersection of the
 116 south shore of the north fork of the St. Lucie River and the

Page 4 of 6

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

593-02257-12 2012800c1

117 west edge of Howard Creek as concurrent with the City of Port
 118 St. Lucie municipal boundary; thence departing said south shore
 119 of the north fork of the St. Lucie River and the municipal
 120 boundary line of the City of Port St. Lucie, south 45 degrees,
 121 16 minutes west, 2,355 feet more or less, to a point within the
 122 body of water of the north fork of the St. Lucie River; thence
 123 departing said point south 41 degrees, 4 minutes east, 6,155
 124 feet more or less to a point located in the body of the north
 125 fork of the St. Lucie River which intersects with the west line
 126 of section thirty, township thirty-seven south, range forty-one
 127 east; thence south 6,459 feet along the west line of sections
 128 thirty and thirty-one, township thirty-seven south, range forty-
 129 one east, to the intersection with ~~on the range line between~~
 130 ~~ranges forty and forty-one east, to the township line between~~
 131 townships thirty-seven and thirty-eight south; ~~also being the~~
 132 southwest corner of section thirty-one, township thirty-seven,
 133 range forty-one east; thence west on the said township line to
 134 the range line dividing ranges thirty-six and thirty-seven east;
 135 thence north on said range line, concurrent with the east
 136 boundary of Okeechobee County, to the northwest corner of
 137 township thirty-four south, range thirty-seven east; thence east
 138 on the township line dividing townships thirty-three and thirty-
 139 four south, to the Atlantic Ocean; thence continuing easterly to
 140 the eastern boundary of the State of Florida; thence southerly
 141 along said east boundary, including the waters of the Atlantic
 142 Ocean within the jurisdiction of the State of Florida, to the
 143 place of beginning.

144 Section 3. All public roads, and the public rights-of-way
 145 associated therewith, lying within the limits of the lands being

593-02257-12 2012800c1

146 incorporated into Martin County as described in sections 1 and 2
 147 are transferred from the jurisdiction of St. Lucie County to the
 148 jurisdiction of Martin County on the effective date of the
 149 change in county boundaries pursuant to this act.

150 Section 4. The governing bodies of St. Lucie County and
 151 Martin County shall enter into an interlocal agreement by
 152 October 1, 2012, which must include a feasible plan to transfer
 153 from St. Lucie County to Martin County the county services,
 154 buildings, infrastructure, waterways, and employees. The
 155 interlocal agreement must also include a gradual transfer of
 156 revenue generated from the area being incorporated into Martin
 157 County from St. Lucie County, which must be completed within 5
 158 years after the agreement is signed. Any loss of revenue to St.
 159 Lucie County may not exceed 20 percent per year of the revenues
 160 that would have been raised from the land transferred to Martin
 161 County in section 1 of this act.

162 Section 5. This act shall take effect only upon its
 163 approval by a majority vote of those qualified electors residing
 164 in the area being transferred from St. Lucie County to Martin
 165 County as described in section 1 voting in a referendum to be
 166 held by the Board of County Commissioners and conducted by the
 167 Supervisor of Elections of St. Lucie County in conjunction with
 168 the next general, special, or other election to be held in St.
 169 Lucie County, in accordance with the provisions of law relating
 170 to elections currently in force, except that this section shall
 171 take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Health and Human Services
Appropriations, *Chair*
Budget, *Vice Chair*
Banking and Insurance
Communications, Energy, and Public Utilities
Higher Education
Reapportionment
Rules

SELECT COMMITTEE:
Protecting Florida's Children, *Chair*

JOINT COMMITTEE:
Legislative Budget Commission

SENATOR JOE NEGRON
28th District

January 12, 2012

The Honorable JD Alexander, Chair
Committee on Budget
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 800

Dear Chairman Alexander:

I would like to request Senate Bill 800 relating to county boundary lines be placed on the agenda for the next scheduled committee meeting.

Thank you, in advance, for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 28

SENATE APPROPRIATIONS
12 JAN 12 PM 1:21
STAFF DIR. _____ STAFF _____

JN/hd

c: Terry Rhodes, Staff Director

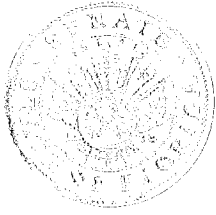
REPLY TO:

- 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665
- 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5088

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Health and Human Services
Appropriations, *Chair*
Budget, *Vice Chair*
Banking and Insurance
Communications, Energy, and Public Utilities
Higher Education
Reapportionment
Rules

SELECT COMMITTEE:
Protecting Florida's Children, *Chair*

JOINT COMMITTEE:
Legislative Budget Commission

SENATOR JOE NEGRON
28th District

January 26, 2012

The Honorable JD Alexander, Chair
Committee on Budget
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 800

Dear Chairman Alexander:

I would like to request Senate Bill 800 relating to county boundary lines be placed on the agenda for the next scheduled committee meeting.

Thank you, in advance, for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 28

JN/hd
c: Terry Rhodes, Staff Director

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Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

12 JAN 26 PM 1:59
 SENATE APPROPRIATIONS
 RECEIVED
 SENT TO: CHAIRMAN
 STAFF DIR. STAFF



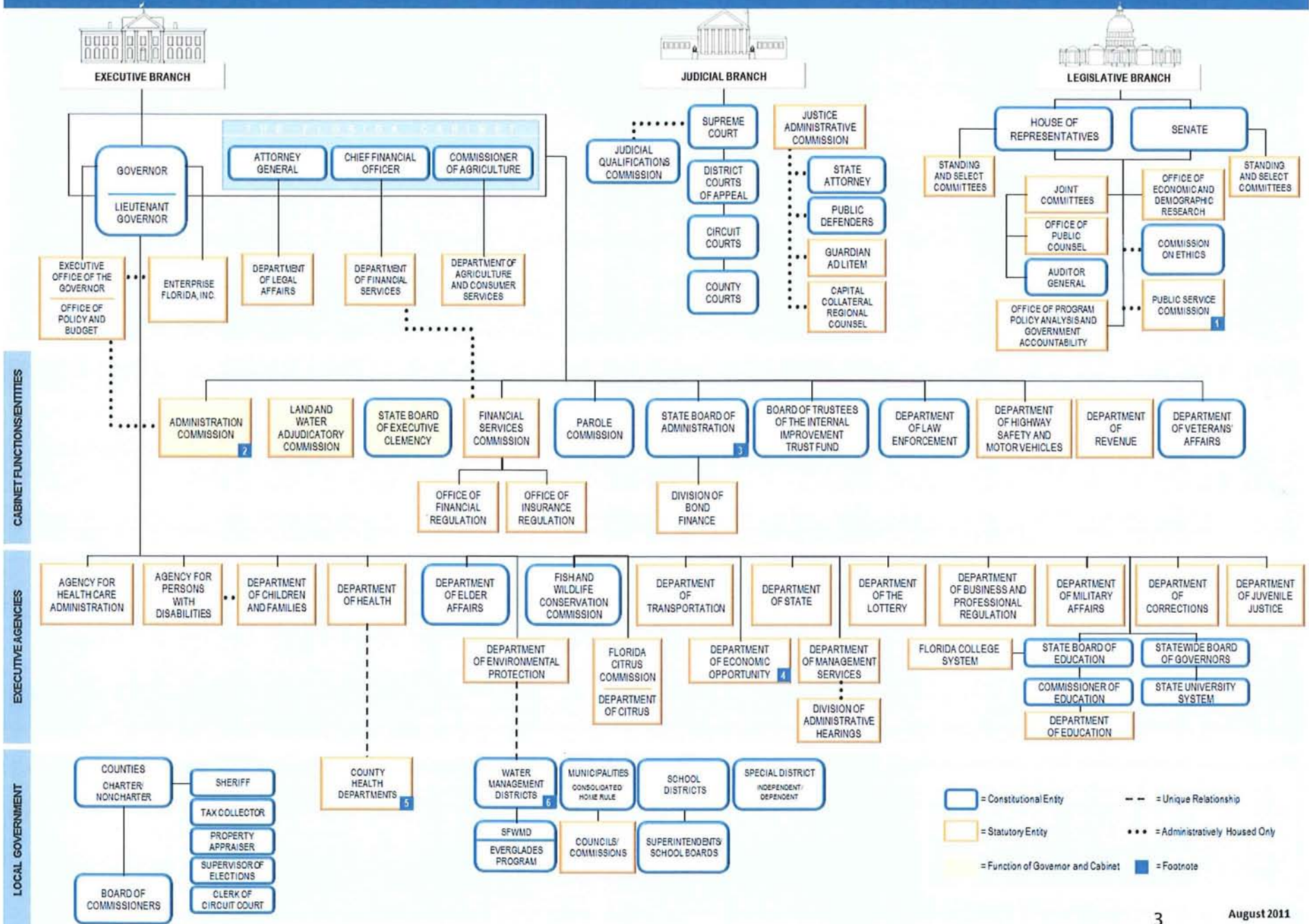
Senate Budget Committee Presentation February 1, 2012

Lisa Vickers
Executive Director
vickersl@dor.state.fl.us

1968 State Agencies and Commissions

- Accountancy, State Board of
- Administration, Board of
- Aging, Florida Commission on
- Agriculture, Department of
- Air and Water Pollution Control Commission, Florida
- Alcoholic Rehabilitation Center and Program – BCSI
- Anatomical Board, Florida
- Appeals of County Officers Budgets, Board of
- Apprenticeship Council, State, Florida Industrial Commission
- Architecture, State Board of
- Archives and History, Florida Board of
- Armory Board
- Attorney General
- Barbers' Sanitary Commission, Florida
- Basic Sciences, State Board of Examiners in the
- Beverage Department, State
- Blind, Florida Council for the
- Boating Council
- Bond Review Board
- Canal Authority of the State of Florida
- Canvassers, Board of State
- Capitol Center Planning Committee
- Capitol Safety Committee
- Children's Commission (inactive and unfunded)
- Chiropractic Examiners, State Board of
- Citrus Commission, Florida
- Civil Defense, Florida State Department of
- Community Hospitals and Medical Facilities, Division of – BCSI
- Concentrate Quality Committee
- Conservation, Board of
- Constitutional Government, Commission on (inactive and unfunded)
- Construction Industry Licensing Board, Florida
- Consumers Council, Florida
- Corrections, Division of - BCSI
- Cosmetology, State Board of
- Crippled Children's Commission
- Deaf and the Blind, Florida School for the – Board of Education
- Dentistry, Florida State Board of
- Development Commission, Florida
- Drainage Commissioners, Board of
- Education, Board of Private
- Education, Board of Vocational
- Education, State Department of – Supt. of Public Instruction
- Egg Commission, Florida
- Electronic Data Processing Management Board, Florida
- Engineer Examiners, State Board of
- Expressway Authority, Brevard County
- Expressway Authority, Jacksonville
- Expressway Authority, Orlando-Orange County
- Expressway Authority, Pinellas County
- Expressway Authority, Tampa-Hillsborough
- Everglades Fire Control Board
- Fire College, Florida State
- Fire Control, District, Central and Southern Florida
- Foresters, State Board of Registration of
- Forestry, State Board of
- Funeral Directors and Embalmers, State Board of
- Game and Fresh Water Fish Commission
- Geological Survey, Florida State – Board of Conservation
- Health, State Board of
- Highway Secondary Trust Fund Trustees, Board of
- Historical Restoration and Preservation Commission, Pensacola
- Historical Restoration and Preservation Commission, St. Augustine
- Hotel and Restaurant Commission
- Housing Authority, Northwest Florida Regional
- Housing Board
- Industrial Commission, Florida
- Industrial Services Advisory Board
- Institutions, Board of Commissioners of State
 - Office of the Coordinator
 - Arts Commission
 - Aviation Division
 - Capitol Center Care of Grounds Division
 - Capitol Center Heating and Electrical Division
 - Construction Division
 - Governor's Mansion Commission
 - State Office Building Division
- Inter-American Center Authority
- Internal Improvement Fund, Trustees of
- Judicial Administrative Commission
- Judicial Council of Florida
- Junior College Board, State – State Board of Education
- Labor Business Agent's Licensing Board
- Land Sales Board, Florida
- Landscape Architects, Board of Examiners of
- Law Enforcement, Florida Bureau of
- Law Revision Commission, Florida
- Legislation, Commission for the Promotion of Uniformity of
- Library and Historical Commission, State
- Marine Sciences and Technology, Commission on
- Massage, Florida Board of
- Mediation and Conciliation Service, Florida Voluntary
- Medical Examiners, Florida State Board of
- Mental Health, Division of – BCSI
- Mental Retardation, Division of – BCSI
- Military Department, Adjutant General
- Milk Commission (inactive and unfunded)
- Motor Vehicles, Department of
- Naturopathic Examiners, State Board of
- Navigation District, Big Bend Inland
- Navigation District, Cross Florida Canal
- Navigation District, Florida Inland
- Navigation District, Suwannee-Anclote Inland
- Navigation District, West Coast Inland
- Nuclear and Space Commission (inactive and unfunded)
- Nursing, Florida State Board of
- Opticians, State Board of Dispensing
- Optometry, Board of
- Osteopathic Medical Examiners, Board of
- Outdoor Recreational Development Council, Florida
- Pardons, State Board of
- Parks and Historic Memorials, Board of
- Pensions, Board of (Confederate)
- Personnel Board, State
- Pest Control Commission of Florida
- Pharmacy, State Board of
- Pilot Commissioners, Boards of (one board for each port)
- Planning and Budget Commission, State
- Podiatry Examiners, State Board of
- Police Standards Council
- Probation and Parole Commission
- Probation and Parole Commission, Board of Examiners for
- Processors Advertising Committee of the Florida Citrus Commission
- Professional Practices Commission
- Psychology, Florida State Board of Examiners of
- Public Safety, Department of
- Public Service Commission, Florida
- Public Welfare, State Department of
- Purchasing Commission, State
- Racing Commission
- Railroad Assessment Board
- Real Estate Commission, Florida
- Retirement Funds, Board for the Investment of Judicial
- Retirement System, Teachers
- Regents, Board of – Board of Education
- Revenue Commission – Florida
- Ringling Museum of Art, John and Mable
- River Basin Water Management Boards
 - Alafia River Basin Water Management Board
 - Crystal River Basin Water Management Board
 - Hillsborough River Basin Water Management Board
 - Northwest River Basin Water Management Board
 - Oklawaha River Basin Water Management Board
 - Peace River Basin Water Management Board
 - Pinellas County-Anclote River Basin Water Management Board
 - Pithlachoscootee River Basin Water Management Board
 - Waccasassa River Basin Water Management Board
 - Withlacoochee River Basin Water Management Board
- Road Board, State
- St. Johns-Indian River Canal District
- Sanitarians Registration Board
- Securities Commission, Florida
- Soil and Water Conservation Board, State – Board of Conservation
- Southwest Florida Water Management District, Governing Board of the – Board of Conservation
- Stephen Foster Memorial Commission
- Student Scholarship and Loan Commission, Florida
- Surety Companies, Board for the Supervision and Registration of Form of Bond of
- Surety Company Bonds, Board to Determine
- Surplus Property, Division of – BCSI
- Suwannee River Authority, Governing Board
- Tax Reform, Florida Commission of
- Textbook Purchasing Board – Board of Education
- Transportation Commission, Board of
- Trust Companies, Board for Fixing Values of Investment Securities of
- Tuberculosis, State Board of
- Turnpike Authority, Florida State
- Veterans' Affairs, Department of
- Veterinary Medicine, Florida State Board of
- Watchmakers Commission, Florida
- Water Resources Appeal Board
- Water Resources Research Center, Florida
- Youth Services, Division of - BCSI

THE FLORIDA ELECTORATE



2012 Florida Senate Legislative Budget Subcommittees

Budget Subcommittee on Health and Human Services

Agency for Health Care Administration	Agency for Persons w/ Disabilities	Department of Children & Families	Elder Affairs	Department of Health	Veterans Affairs
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Budget Subcommittee on General Government Appropriations

Agriculture and Consumer Services	Business and Professional Regulation	Department of Citrus	Department of Environmental Protection	Department of Financial Services	Lottery	Department of Management Services	Department of Revenue	Fish and Wildlife Conservation Commission	Public Service Commission
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Budget Subcommittee on Finance and Tax

Budget Subcommittee on Education Pre-K – 12 Appropriations

Department of Education	Florida Education Finance Program	Voluntary Prekindergarten	K-12 Non-FEFP Programs	K-12 Federal Programs	Education Media and Technology	State Board of Education Administrative Offices
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Budget Subcommittee on Higher Education

Department of Education	Florida College System	State University System	District Workforce	Blind Services	Vocational Rehabilitation	Student Financial Aid	Private Colleges and Universities	Board of Governors Administration Office
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Budget Subcommittee on Criminal and Civil Justice Appropriations

Department of Legal Affairs	Department of Corrections	Department of Law Enforcement	Parole Commission	Department of Juvenile Justice	State Court System	Guardian Ad Litem	Clerk of Courts	State Attorneys	Public Defenders	Capital Collateral Regional Counsels	Regional Conflict Counsels
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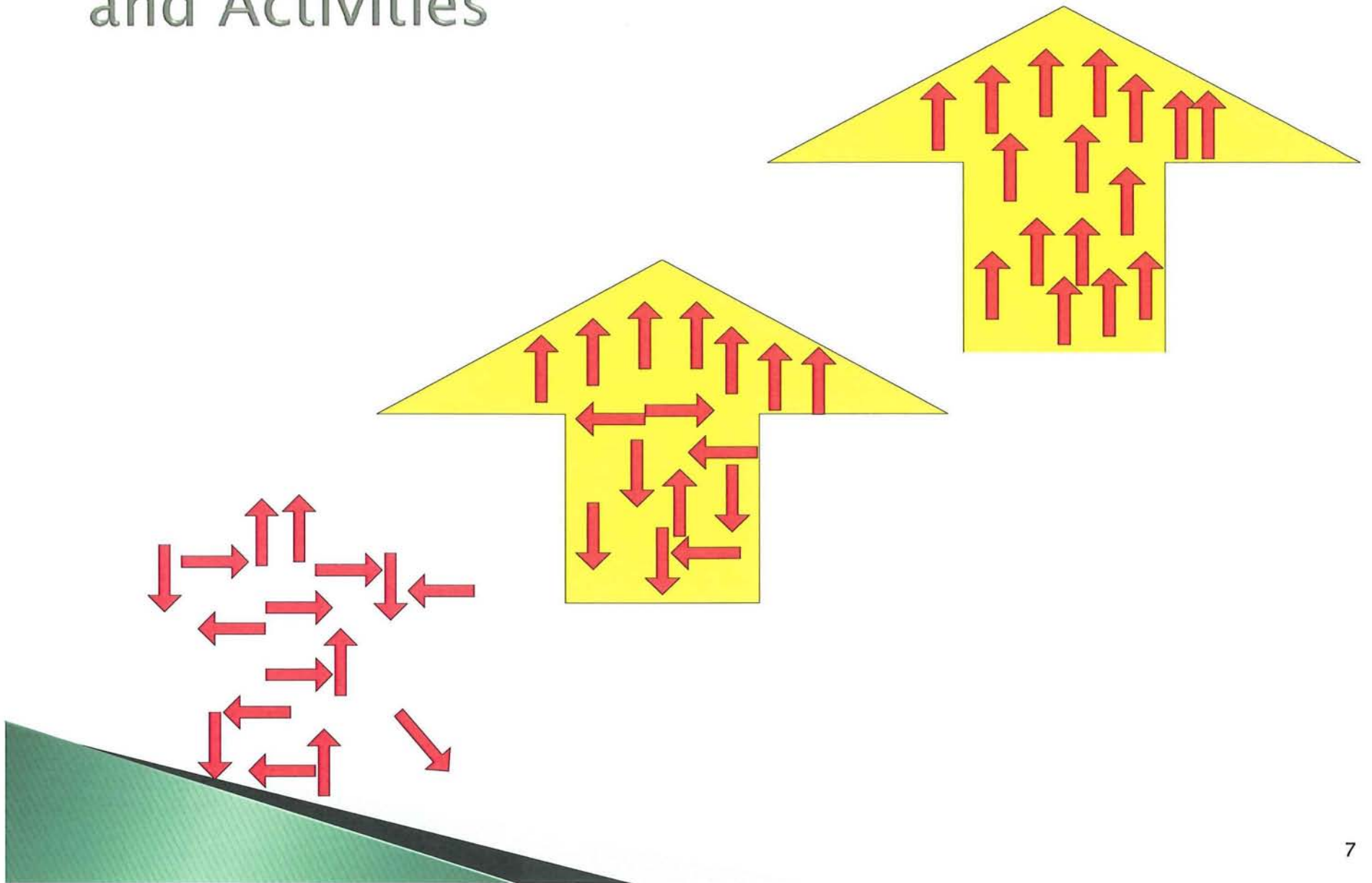
Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations

Department of Economic Opportunities	Highway Safety & Motor Vehicles	Department of Military Affairs	Department of State	Department of Transportation	Division of Emergency Management
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Planning and Budgeting

Report	Submitted to	Submission Date
Long Range Financial Outlook s. 216.012, F. S.	Legislative Budget Commission	September 15
Long Range Program Plan s. 216.013, F. S.	Executive Office of the Governor and the Legislature	September 30
Capital Improvement Plan s. 216.015, F. S.	Office of the Governor	September 15
Legislative Budget Request s. 216.023, F. S.	Executive Office of the Governor and the Legislature	October 15
Performance Measures and Standards s. 216.1827, F. S.	Executive Office of the Governor and the Legislature	Updated Annually
Agency Security Strategic and Operational Plan s. 282.318 (2) F.S.	Agency for Enterprise Information and Technology	December 31

Alignment of Strategic Plans, Metrics and Activities



Department of Financial Services

Debt Collection Program



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

DFS – Debt Collection Program

State Agencies Responsibilities:

- ▶ Exercise due diligence (e.g., phone calls, letters, etc.) in securing payment for all debt due to the state
- ▶ Assign accounts to a collection vendor contracted by DFS no later than 120 days after due date on account
Note: DCF and DOR have statute authority to manage their own collection efforts
- ▶ Report annually to the Legislature and the Chief Financial Officer (CFO) on accounts receivable and other claims due to the state pursuant to Section 17.20(4), F.S.

DFS – Debt Collection Program

Debt Collection Contract:

- ▶ Administer and manage the debt collections contract for agencies
- ▶ Review and approve agency specific exemption requests
- ▶ Standard exemptions are:
 - Statue of limitations
 - Debtor is deceased or has filed for bankruptcy
 - Debtor is on an authorized payment plan
- ▶ Report annually to the Governor and Legislature on claims for collections due to the state pursuant to Section 17.20(5), F.S.

DFS – Debt Collection Program

Collection Agents Under CFO's Current Debt Collections Contract:

- ▶ Gila Corporation d/b/a Municipal Services Bureau (MSB)
- ▶ National Enterprise Systems, Inc. (NES)
- ▶ NCO Financial Systems, Inc. (NCO)
- ▶ United Collections Bureau, Inc. (UCB)

	Fiscal Year	
	2010	2011
Dollar amount assigned to collection	\$146.75	\$198.07
Dollar amount collected	\$ 6.19	\$ 10.16
% dollar amount collected of dollar amount assigned	4.22%	5.13%

*Amounts in millions and represent all collection activities

Collection Agent - 1st Placement Statistics as of Nov 1, 2011

Debt Type	Number of Accounts Referred	Amount Referred	Number of Outstanding Accounts	Amount Outstanding	Amount Remitted to Agencies	Collection Rate
Cost of Care	36,806	\$ 24,289,104.30	28,919	\$ 18,632,256.28	\$ 92,834.93	0.38%
Court Ordered Claims	40	\$ 2,621,924.37	14	\$ 1,418,222.31	\$ 1,000.00	0.04%
Criminal History Requests	107	\$ 10,360.34	85	\$ 8,467.21	\$ 113.45	1.10%
Damage of State Property (Accident Claims)	677	\$ 1,391,017.96	322	\$ 560,338.20	\$ 98,864.20	7.11%
Emergency Response Reimbursement	61	\$ 141,273.86	48	\$ 128,032.79	\$ 1,741.41	1.23%
Fees, Fines & Forfeitures	9,338	\$ 86,731,042.66	5,218	\$ 43,704,611.99	\$ 302,519.57	0.35%
Injunctive Relief Order	1	\$ 1,057,023.68	-	\$ -	\$ -	0.00%
Legality Expenses	1	\$ 1,500.00	1	\$ 1,500.00	\$ -	0.00%
Lottery Ticket Sales	456	\$ 3,355,020.47	243	\$ 2,064,207.59	\$ 58,823.89	1.75%
Medicaid Fraud	19	\$ 2,886,622.59	18	\$ 2,861,804.49	\$ -	0.00%
Medicaid Overpayment	26	\$ 1,889,500.53	24	\$ 1,667,878.52	\$ -	0.00%
MFMP Fees	5,374	\$ 1,341,933.18	369	\$ 78,424.44	\$ 176,138.78	13.13%
Non-Compliance Penalties	1,811	\$ 41,034,720.64	1,436	\$ 38,647,685.11	\$ 120,421.72	0.29%
Nonpayment for State Goods/Services (Foster Care, etc.)	1,514	\$ 432,266.84	902	\$ 249,879.70	\$ 10,497.24	2.43%
Other	1,858	\$ 1,518,168.06	1,599	\$ 1,227,998.92	\$ 46,542.13	3.07%
Overpayment of State Funds (Non-Salary & Leave)	340	\$ 894,339.40	306	\$ 775,633.00	\$ 9,040.37	1.01%
Overpayment of State Funds (Salary & Leave)	241	\$ 128,448.10	164	\$ 81,780.31	\$ 640.89	0.50%
Restitution	24	\$ 1,910,396.78	16	\$ 1,906,035.93	\$ -	0.00%
Returned Checks	5,215	\$ 739,944.89	2,694	\$ 302,979.39	\$ 24,214.35	3.27%
Taxes	621	\$ 682,995.83	370	\$ 370,735.66	\$ 25,260.51	3.70%
Tuition Reimbursement	114	\$ 82,791.34	37	\$ 20,674.79	\$ 1,516.85	1.83%
Unemployment Compensation Benefit Overpayments	234,477	\$ 148,076,623.05	156,406	\$ 96,279,698.78	\$ 1,265,700.17	0.85%
Grand Total	299,121	\$ 321,217,018.86	199,191	\$ 210,988,845.39	\$ 2,235,870.46	0.70%

Notes:

- (1) Accounts are moved to 2nd placement when they reach 24 months past due
- (2) If Amt Outstanding is less than Amt Referred, Accounts have been closed for one of the following reasons: debtor dies or goes bankrupt, account referred to 2nd placement, account has reached statute of limitations

Collection Agent – 2nd Placement Statistics as of Nov 1, 2011

Debt Type	Number of Accounts		Number of Outstanding		Amount		Collection Rate
	Referred	Amount Referred	Accounts	Outstanding	Remitted to Agencies		
Cost of Care	29,099	\$ 21,427,072.23	11,842	\$ 8,574,898.45	\$ 19,286.65		0.09%
Court Ordered Claims	117	\$ 1,829,046.42	45	\$ 1,180,737.15			0.00%
Criminal History Requests	33	\$ 7,040.00	14	\$ 2,185.00			0.00%
Damage of State Property (Accident Claims)	746	\$ 1,536,826.11	411	\$ 981,278.67	\$ 8,488.77		0.55%
Emergency Response Reimbursement	14	\$ 29,056.82	12	\$ 28,806.82			0.00%
Fees, Fines & Forfeitures	9,611	\$ 83,988,078.93	8,526	\$ 69,502,317.32	\$ 91,416.98		0.11%
HMS Clients	18,004	\$ 2,506,697.98	17,780	\$ 2,485,506.04	\$ 11,049.60		0.44%
Legality Expenses	1	\$ 179.00	1	\$ 179.00			0.00%
Lottery Ticket Sales	240	\$ 1,399,528.57	237	\$ 1,388,530.46	\$ 10,998.13		0.79%
Medicaid Overpayment	61	\$ 4,399,195.74	60	\$ 3,987,509.30			0.00%
Non-Compliance Penalties	885	\$ 24,665,249.01	812	\$ 24,353,862.81	\$ 64,994.17		0.26%
Nonpayment for State Goods/Services (Foster Care, etc.)	188	\$ 850,194.99	94	\$ 216,466.09	\$ 12,034.11		1.42%
Other	457	\$ 33,529,122.81	412	\$ 32,884,234.57	\$ 17,139.20		0.05%
Overpayment of State Funds (Non-Salary & Leave)	33	\$ 66,565.29	21	\$ 52,049.21			0.00%
Overpayment of State Funds (Salary & Leave)	398	\$ 325,612.05	379	\$ 303,839.80	\$ 1,932.31		0.59%
Restitution	59	\$ 3,460,469.73	58	\$ 3,450,582.18			0.00%
Returned Checks	5,950	\$ 1,033,187.66	4,533	\$ 799,585.61	\$ 17,416.45		1.69%
Taxes	330	\$ 555,553.80	313	\$ 525,826.58	\$ 4,717.60		0.85%
Tuition Reimbursement	210	\$ 201,450.19	204	\$ 195,574.89	\$ 282.49		0.14%
Unemployment Compensation Benefit Overpayments	73,466	\$ 59,576,522.96	46,000	\$ 36,334,043.04	\$ 158,610.48		0.27%
Grand Total	139,902	\$ 241,386,650.28	91,754	\$ 187,248,012.98	\$ 418,366.94		0.17%

DFS – Accounts Receivable Write-Offs

Accounts Receivable Write-off :

- ▶ Requests are submitted to the CFO to remove accounts from the Agency's general ledger
- ▶ Write-offs must be in accordance with generally accepted accounting principles (GAAP)
 - CFO reviews to make sure the account is at least 12 months old and has been with a collection agent for 6 months
- ▶ **Approval of the write-off is for accounting purposes only**
- ▶ **Agencies should continue collection efforts until the account reaches its statute of limitations**

DFS – Debt Collection Program

Improvements to the Program:

- ▶ Review laws regarding statute of limitations and authority for collections/offsets
- ▶ Review Agencies current procedures
- ▶ Review system impacts for data sharing
- ▶ Provide recommendations for law changes

DFS – Debt Collection Program

Christina Smith, Director
Division of Accounting and Auditing

Mike Rutherford, Financial Administrator
Debt Collection Program

Website:

<http://www.myfloridacfo.com/aadir/DebtCollection.htm>