

Tab 1	CS/SB 56 by TR, Bean (CO-INTRODUCERS) Baxley, Simpson, Perry; (Compare to CS/H 00309) Specialty License Plates					
215764	PCS	S		AP, ATD		04/17 04:57 PM
651502	PCS:D	S	L	AP, Bean	Delete everything after	04/28 09:57 PM
557340	PCS:AA	S	L	AP, Latvala	Delete L.203 - 235:	04/30 10:42 AM
108580	PCS:AA	S	L	AP, Gainer	Delete L.48 - 829:	04/30 11:11 AM
437048	A	S		AP, Latvala	Delete L.130 - 141:	04/28 03:04 PM
Tab 2	CS/SB 282 by CA, Steube; (Compare to CS/H 00193) Towing and Storage Fees					
184632	PCS	S		AP, AFT		04/17 12:03 PM
Tab 3	CS/SB 476 by CJ, Bean; (Similar to CS/H 00457) Terrorism and Terrorist Activities					
Tab 4	CS/SB 510 by HP, Gainer (CO-INTRODUCERS) Montford; (Similar to CS/H 00429) Grant Program for Rural Hospitals					
Tab 5	CS/SB 552 by CJ, Bracy; (Identical to CS/H 00313) Child Support					
Tab 6	CS/SB 772 by ED, Rouson; (Identical to 1ST ENG/H 00371) Assistive Technology Devices					
Tab 7	CS/SB 784 by TR, Gainer (CO-INTRODUCERS) Rouson; (Compare to CS/CS/CS/1ST ENG/H 00545) Department of Highway Safety and Motor Vehicles					
314566	PCS	S		AP, ATD		04/20 04:30 PM
265394	A	S		AP, Simmons	btw L.287 - 288:	04/24 03:04 PM
743126	A	S		AP, Brandes	Delete L.421 - 425:	04/24 03:20 PM
838110	A	S		AP, Brandes	btw L.555 - 556:	04/25 08:31 AM
319724	SA	S		AP, Brandes	btw L.555 - 556:	04/28 02:16 PM
670990	A	S		AP, Brandes	btw L.1080 - 1081:	04/23 10:58 PM
254818	A	S		AP, Braynon	Delete L.1081 - 1234:	04/21 05:03 PM
213662	SA	S		AP, Braynon	btw L.2069 - 2070:	04/25 08:33 AM
934212	A	S		AP, Bean	Delete L.1081 - 1103:	04/24 08:36 AM
652328	SA	S		AP, Bean	Delete L.1081 - 1103:	04/24 04:20 PM
403134	A	S		AP, Gainer	Delete L.1081 - 1103:	04/24 06:26 PM
407566	A	S		AP, Brandes	btw L.1234 - 1235:	04/24 04:14 PM
349606	A	S		AP, Gainer	btw L.1727 - 1728:	04/25 09:33 AM
292206	A	S		AP, Book	btw L.1925 - 1926:	04/23 10:56 PM
Tab 8	CS/CS/SB 860 by RI, CA, Brandes (CO-INTRODUCERS) Lee; (Compare to CS/CS/H 00909) Florida Building Code					
889626	D	S		AP, Brandes	Delete everything after	04/28 02:56 PM
Tab 9	SB 888 by Bean; (Identical to H 00589) Prescription Drug Price Transparency					
Tab 10	CS/SB 902 by ED, Simmons; (Compare to CS/CS/CS/1ST ENG/H 00015) Gardiner Scholarship Program					
267912	A	S		AP, Simmons	Delete L.45 - 47:	04/28 02:30 PM
313386	A	S		AP, Simmons	Delete L.221 - 222:	04/28 02:31 PM
565618	A	S		AP, Simmons	Delete L.267 - 271:	04/28 02:29 PM

Tab 11 CS/SB 1118 by TR, Gainer (CO-INTRODUCERS) Rouson; (Similar to CS/CS/CS/1ST ENG/H 00865)						
Transportation						
304644	PCS	S		AP, ATD		04/17 04:59 PM
890844	A	S		AP, Brandes	btw L.134 - 135:	04/23 11:01 PM
408222	A	S		AP, Simmons	btw L.134 - 135:	04/24 05:39 PM
463056	A	S	WD	AP, Brandes	Delete L.135 - 734:	04/28 01:37 PM
536292	AA	S	WD	AP, Brandes	btw L.296 - 297:	04/28 01:38 PM
870828	A	S		AP, Grimsley	btw L.389 - 390:	04/24 03:18 PM
404224	A	S	WD	AP, Gainer	Delete L.402 - 403:	04/24 11:07 AM
268346	A	S	WD	AP, Montford	btw L.734 - 735:	04/24 06:13 PM
788242	A	S		AP, Gainer	btw L.740 - 741:	04/24 11:07 AM
754266	A	S		AP, Braynon	btw L.740 - 741:	04/28 03:06 PM

Tab 12 SB 1228 by Gainer (CO-INTRODUCERS) Hutson; (Similar to H 01031) Marine Turtle Protection Act						

Tab 13 SB 1302 by Gibson; (Similar to CS/H 01109) Private School Student Participation in Extracurricular Activities						
641114	PCS	S		AP, AED		04/20 09:35 AM
663834	A	S		AP, Gibson	Delete L.24 - 26:	04/28 12:09 PM

Tab 14 CS/SB 1306 by CM, Montford; (Similar to H 01433) Economic Programs						
561354	D	S		AP, Montford	Delete everything after	04/28 02:52 PM
536208	SD	S	L	AP, Montford	Delete everything after	04/30 07:43 PM

Tab 15 CS/SB 1312 by CA, Perry; (Similar to CS/CS/H 01021) Construction						
728698	A	S		AP, Perry	btw L.172 - 173:	04/24 08:53 AM
692516	SA	S		AP, Perry	Delete L.151 - 657:	04/24 05:36 PM
247846	AA	S	L	AP, Powell	Delete L.318 - 350.	04/30 07:32 PM
137454	A	S	WD	AP, Brandes	Delete L.513 - 542:	04/25 08:27 AM

Tab 16 CS/SB 1314 by ED, Grimsley (CO-INTRODUCERS) Mayfield; (Compare to CS/CS/CS/1ST ENG/H 00015)						
Educational Options						
892998	A	S		AP, Grimsley	Delete L.133 - 134:	04/28 01:03 PM
679426	A	S		AP, Stargel	btw L.283 - 284:	04/28 03:01 PM
702374	A	S		AP, Grimsley	Delete L.284 - 297.	04/28 01:03 PM

Tab 17 CS/SB 1362 by ED, Broxson; (Compare to CS/CS/1ST ENG/H 07101) K-12 Education						
890458	A	S		AP, Stargel	Delete everything after	04/28 02:56 PM
449368	AA	S	L	AP, Montford	Delete L.1199 - 1223.	04/29 04:26 PM
497682	AA	S	L	AP, Montford	Delete L.862 - 892.	04/29 04:27 PM
332576	AA	S	L	AP, Montford	Delete L.673 - 683.	04/30 05:05 PM
469268	AA	S	L	AP, Montford	btw L.816 - 817:	04/30 05:42 PM
164028	AA	S	L	AP, Montford	Delete L.309 - 317:	04/30 05:43 PM

Tab 18 CS/CS/SB 1372 by CA, RI, Perry; (Compare to CS/H 00227) Building-related Contracting						
586648	A	S		AP, Brandes	btw L.39 - 40:	04/23 11:02 PM
806082	A	S		AP, Perry	btw L.273 - 274:	04/24 08:52 AM

Tab 19 CS/SB 1442 by TR, Broxson; (Similar to CS/H 01123) Fee and Surcharge Reductions						
902848	A	S	L	AP, Broxson	btw L.451 - 452:	04/28 03:50 PM

Tab 20 CS/SB 1550 by HP, Grimsley (CO-INTRODUCERS) Steube; (Similar to CS/CS/H 01209) Health Information Transparency

928046	A	S	L	AP, Grimsley	Before L.34:	04/30 06:11 PM
545008	AA	S	L	AP, Flores	Before L.5:	04/30 08:12 PM

Tab 21 CS/SB 1598 by ED, Brandes (CO-INTRODUCERS) Perry; (Compare to CS/CS/H 00773) Education

614458	PCS	S		AP, AED		04/20 04:15 PM
852502	A	S		AP, Brandes	Delete L.110 - 577:	04/28 02:53 PM
447568	A	S		AP, Galvano	btw L.577 - 578:	04/28 02:13 PM
671444	A	S	L	AP, Flores	btw L.109 - 110:	04/28 03:30 PM
210082	A	S	L	AP, Brandes	btw L.577 - 578:	04/30 12:33 PM

Tab 22 CS/SB 1626 by CJ, Bradley; (Similar to CS/H 01379) Department of Legal Affairs

Tab 23 SB 1710 by Stargel (CO-INTRODUCERS) Grimsley; (Similar to CS/CS/H 07057) Education

613868	PCS	S		AP, AED		04/19 06:29 PM
866412	A	S		AP, Stargel	btw L.60 - 61:	04/28 02:15 PM
753854	A	S		AP, Stargel	Delete L.64:	04/22 05:50 PM
733616	A	S	L	AP, Bean	Delete L.46 - 60:	04/28 04:12 PM

Tab 24 SB 1760 by Grimsley (CO-INTRODUCERS) Campbell; (Similar to CS/H 01195) Health Care Facility Regulation

805502	PCS	S		AP, AHS		04/20 05:03 PM
400850	A	S		AP, Grimsley	btw L.2418 - 2419:	04/28 12:07 PM
905900	A	S		AP, Grimsley	Delete L.2450 - 2473:	04/28 02:52 PM

Tab 25 SB 7030 by GO; (Compare to H 00143) Retirement

686242	D	S	L	AP, Grimsley	Delete everything after	04/28 07:34 PM
584972	AA	S	L	AP, Brandes	btw L.2169 - 2170:	04/30 05:47 PM

Tab 26 CS/CS/HB 23 by HCA, CFS, Eagle (CO-INTRODUCERS) Gruters, Massullo, Rodrigues; (Compare to CS/CS/S 00570) Public Assistance

968490	D	S		AP, Powell	Delete everything after	04/28 02:20 PM

Tab 27 HB 7007 by HHS, Brodeur; (Similar to S 00900) State Group Insurance Program

691160	A	S	FAV	GO, Baxley	btw L.162 - 163:	04/24 05:28 PM
611870	A	S	FAV	GO, Baxley	Delete L.178 - 179:	04/24 05:28 PM
612856	A	S	FAV	GO, Baxley	Delete L.263:	04/24 05:28 PM
969732	A	S	FAV	GO, Baxley	Delete L.403 - 407:	04/24 05:28 PM
919800	A	S	FAV	GO, Baxley	Delete L.421:	04/24 05:28 PM
964332	A	S	FAV	GO, Baxley	Delete L.458:	04/24 05:28 PM
538286	A	S	FAV	GO, Baxley	Delete L.469 - 511:	04/24 05:28 PM
203288	A	S	FAV	GO, Baxley	Delete L.566:	04/24 05:28 PM
238436	A	S		AP, Montford	Delete L.557:	04/28 02:55 PM

Tab 28 HB 7109 by WMC, Boyd (CO-INTRODUCERS) Ahern, Massullo, McClain, Miller, A., Toledo; (Compare to S 00176) Taxation

945880	D	S	L	AP, Stargel	Delete everything after	04/30 08:59 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Latvala, Chair
Senator Flores, Vice Chair

MEETING DATE: Monday, May 1, 2017
TIME: 8:00—11:00 a.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Latvala, Chair; Senator Flores, Vice Chair; Senators Bean, Benacquisto, Book, Bracy, Bradley, Brandes, Braynon, Gainer, Galvano, Gibson, Grimsley, Montford, Powell, Simmons, Simpson, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION

A proposed committee substitute for the following bill (CS/SB 56) is available:

1	CS/SB 56 Transportation / Bean (Compare CS/H 309, CS/H 973, CS/CS/CS/H 1375)	Specialty License Plates; Establishing an annual use fee for the Ducks Unlimited license plate; revising the distribution of proceeds for the Fallen Law Enforcement Officers License Plate; requiring the Department of Highway Safety and Motor Vehicles to develop a Ducks Unlimited license plate, etc. TR 02/21/2017 Fav/CS ATD 04/13/2017 Fav/CS AP 05/01/2017

With subcommittee recommendation – Transportation, Tourism, and Economic Development

A proposed committee substitute for the following bill (CS/SB 282) is available:

2	CS/SB 282 Community Affairs / Steube (Compare CS/H 193)	Towing and Storage Fees; Prohibiting counties and municipalities from imposing additional charges, costs, expenses, fines, fees, or penalties on a registered owner or lienholder of a vehicle, etc. CA 03/22/2017 Fav/CS TR 04/04/2017 Favorable AFT 04/13/2017 Fav/CS AP 05/01/2017

With subcommittee recommendation – Finance and Tax

A proposed committee substitute for the following bill (CS/SB 476) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 476 Criminal Justice / Bean (Similar CS/H 457)	Terrorism and Terrorist Activities; Extending the applicability of the definition of the term "terrorism" to other sections of ch. 775, F.S.; prohibiting a person from using, attempting to use, or conspiring to use military-type training received from a designated foreign terrorist organization for certain purposes; prohibiting a person from providing material support or resources, or engaging in other specified actions, to violate specified criminal provisions, etc. CJ 04/03/2017 Fav/CS MS 04/17/2017 Favorable ACJ 04/18/2017 Favorable AP 05/01/2017	
With subcommittee recommendation – Criminal and Civil Justice			
4	CS/SB 510 Health Policy / Gainer (Similar CS/H 429)	Grant Program for Rural Hospitals; Requiring the Department of Health to establish and administer the Florida Rural Hospital Capital Improvement Competitive Grant Program for certain rural hospitals; deleting requirements for certain information in grant applications, etc. HP 02/21/2017 Fav/CS AHS 04/18/2017 Favorable AP 05/01/2017	
With subcommittee recommendation – Health and Human Services			
5	CS/SB 552 Criminal Justice / Bracy (Identical CS/H 313)	Child Support; Citing this act as the "Florida Responsible Parent Act"; providing additional circumstances under which an obligor who fails to pay child support may avoid suspension of his or her driver license and motor vehicle registration, etc. CJ 03/06/2017 Temporarily Postponed CJ 03/27/2017 Fav/CS CF 04/17/2017 Favorable AP 05/01/2017	
6	CS/SB 772 Education / Rouson (Identical H 371)	Assistive Technology Devices; Revising provisions relating to the accessibility and use of assistive technology devices by persons with disabilities, etc. ED 03/21/2017 Fav/CS AED 04/13/2017 Favorable AP 05/01/2017	
With subcommittee recommendation – Pre-K – 12 Education			

A proposed committee substitute for the following bill (CS/SB 784) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 784 Transportation / Gainer (Compare CS/CS/CS/H 545, CS/CS/CS/H 1375, CS/S 1022, CS/S 1374, CS/S 1734)	Department of Highway Safety and Motor Vehicles; Revising provisions relating to federal regulations to which owners and drivers of commercial motor vehicles are subject; providing an exemption, beginning on a specified date, of a certain fee for vehicles registered under the International Registration Plan; providing for reimbursement to the department of tuition and other course expenses for certain training under certain circumstances; requiring the department to make available, upon request, a report to each school district of certain information of each student whose driving privileges have been suspended under this section, etc. TR 03/22/2017 Fav/CS ATD 04/18/2017 Fav/CS AP 04/25/2017 Not Considered AP 05/01/2017	
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
8	CS/CS/SB 860 Regulated Industries / Community Affairs / Brandes (Compare CS/CS/H 909, CS/S 1312, CS/CS/S 1372, S 7000)	Florida Building Code; Creating an internship path to certification as an inspector or plans examiner; specifying that a county or municipal government, school board, community college board, state university, or state agency is not prohibited from entering into a contract for the services of a building code administrator or building code official; requiring the Florida Building Commission to use the 6th and subsequent editions of the Florida Building Code as the foundation for the development of and updates to the code, etc. CA 03/14/2017 Fav/CS RI 03/28/2017 Fav/CS AP 05/01/2017 RC	
9	SB 888 Bean (Identical H 589)	Prescription Drug Price Transparency; Requiring the Agency for Health Care Administration to collect data on the retail prices charged by pharmacies for the 300 most frequently prescribed medicines, etc. HP 03/14/2017 Favorable AHS 04/18/2017 Favorable AP 05/01/2017	
With subcommittee recommendation – Health and Human Services			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	CS/SB 902 Education / Simmons (Compare CS/CS/CS/H 15)	Gardiner Scholarship Program; Prohibiting a student who is enrolled in the Florida School for the Deaf and the Blind from being eligible for the program; requiring that a student's account be closed and program funds revert to the state after the account is inactive for a specified number of years; specifying that certain actions of the private school are a basis for program ineligibility, etc. ED 03/27/2017 Workshop-Discussed ED 04/03/2017 Not Considered ED 04/17/2017 Fav/CS AP 05/01/2017 RC	

A proposed committee substitute for the following bill (CS/SB 1118) is available:

11	CS/SB 1118 Transportation / Gainer (Similar CS/CS/CS/H 865, Compare CS/CS/CS/H 695, CS/CS/S 842)	Transportation; Providing for the calculation of fines for unlawful weight and load for a vehicle fueled by natural gas; requiring bridges on public transportation facilities to be inspected for certain purposes at regular intervals as required by the Federal Highway Administration; increasing the allowable amount for contracts for construction and maintenance which the Department of Transportation may enter into, in certain circumstances, without advertising and receiving competitive bids, etc. TR 03/28/2017 Fav/CS ATD 04/13/2017 Fav/CS AP 04/25/2017 Not Considered AP 05/01/2017	
With subcommittee recommendation – Transportation, Tourism, and Economic Development			

12	SB 1228 Gainer (Similar H 1031)	Marine Turtle Protection Act; Adding the existing offense of possession of any marine turtle species or hatchling, or parts thereof, or nests to level 3 of the offense severity ranking chart for the purpose of increasing sentencing points for conviction of the offense, etc. CJ 04/03/2017 Favorable EP 04/19/2017 Favorable AP 05/01/2017	

A proposed committee substitute for the following bill (SB 1302) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	SB 1302 Gibson (Similar CS/H 1109)	Private School Student Participation in Extracurricular Activities; Revising the eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports at specified public schools, etc. ED 03/27/2017 Workshop-Discussed ED 04/03/2017 Favorable AED 04/18/2017 Fav/CS AP 05/01/2017 RC	
With subcommittee recommendation – Pre-K – 12 Education			
14	CS/SB 1306 Commerce and Tourism / Montford (Similar H 1433, Compare H 889, CS/CS/H 7005, S 1076, S 1110)	Economic Programs; Requiring the Department of Economic Opportunity to contract with a direct-support organization to promote the sports industry and the participation of residents in certain athletic competitions in this state and to promote the state as a host for certain athletic competitions; requiring the department to establish a direct-support organization known as the "Florida Sport Foundation," rather than authorizing the Office of Tourism, Trade, and Economic Development to authorize a direct-support organization, to assist the department in certain promotion and development activities; requiring the Office of Program Policy Analysis and Government Accountability to analyze and evaluate the first 3 years of certain programs, etc. CM 04/17/2017 Fav/CS AP 05/01/2017 RC	
15	CS/SB 1312 Community Affairs / Perry (Similar CS/CS/H 1021, Compare H 567, CS/CS/S 860)	Construction; Authorizing solar energy systems manufactured or sold in the state to be certified by professional engineers; requiring the Florida Building Commission to use certain entities and codes for updates to the Florida Building Code; requiring local jurisdictions to reduce certain permit fees, etc. CU 03/28/2017 Favorable CA 04/17/2017 Fav/CS AP 04/25/2017 Not Considered AP 05/01/2017 RC	

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	CS/SB 1314 Education / Grimsley (Compare CS/CS/CS/H 15)	Educational Options; Specifying the Department of Education's duty to approve or deny an application for the Florida Tax Credit Scholarship Program within a specified time; requiring an eligible nonprofit scholarship-funding organization to allow certain dependent children to apply for a scholarship at any time; revising parent and student responsibilities for program participation; authorizing the Learning Systems Institute to receive compensation for research under certain circumstances; authorizing specified eligible nonprofit scholarship-funding organizations to develop a professional development system, etc. ED 03/27/2017 Workshop-Discussed ED 04/03/2017 Fav/CS AP 05/01/2017 RC	
17	CS/SB 1362 Education / Broxson (Compare CS/CS/H 7101)	K-12 Education; Removing a requirement that the Department of Education compare certain charter school student performance data to certain traditional public schools; authorizing certain entities to apply to the State Board of Education for designation as a High-Impact Charter Network; revising the exams each public high school is required to administer to all enrolled 10th grade students to include the preliminary ACT, rather than the ACT Aspire, etc. ED 03/27/2017 Workshop-Discussed ED 04/03/2017 Not Considered ED 04/17/2017 Fav/CS AP 05/01/2017	
18	CS/CS/SB 1372 Community Affairs / Regulated Industries / Perry (Compare CS/H 227, H 691, CS/H 901, CS/CS/S 860, S 7000)	Building-related Contracting; Specifying that provisions regulating certified electrical contractors and certified alarm system contractors do not prevent such contractors from acting as a prime contractor or from subcontracting work to other licensed contractors under certain circumstances; requiring the Florida Building Commission to use certain entities and codes for updates to the Florida Building Code; providing that certain technical amendments to the Florida Building Code which are adopted by a local government are not rendered void when the code is updated, etc. RI 04/04/2017 Fav/CS CA 04/17/2017 Fav/CS AP 04/25/2017 Not Considered AP 05/01/2017 RC	

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
19	CS/SB 1442 Transportation / Broxson (Similar CS/H 1123, Compare H 741, H 7109, S 514, S 1320)	Fee and Surcharge Reductions; Deleting the fee for a commission of an elected officer by the Governor; deleting the fee for a claim for refund of the tax on motor fuel; exempting a surviving spouse from the fee to transfer a motor vehicle title; eliminating the application fee and the fees for certain examinations for an initial Florida Professional Educator's Certificate beginning in a specified fiscal year, etc. TR 03/28/2017 Fav/CS AFT 04/13/2017 Favorable AP 05/01/2017	
With subcommittee recommendation – Finance and Tax			
20	CS/SB 1550 Health Policy / Grimsley (Similar CS/CS/H 1209)	Health Information Transparency; Requiring the Agency for Health Care Administration to contract with a vendor to evaluate health information technology activities to identify best practices and methods to increase interoperability; revising the definition of the term "third party" for purposes of liability for payment of certain medical services covered by Medicaid; revising provisions relating to responsibility for Medicaid payments in settlement proceedings, etc. HP 04/03/2017 Fav/CS AP 05/01/2017 RC	
A proposed committee substitute for the following bill (CS/SB 1598) is available:			
21	CS/SB 1598 Education / Brandes (Compare CS/CS/H 773, CS/H 1111, CS/CS/H 1331, S 1474)	Education; Authorizing the Department of Corrections to contract with charter schools to provide education services to the Correctional Education Program; creating the Schools of Excellence Program; providing additional authority and responsibilities to the principal of a School of Excellence; authorizing certain high school educational facilities to be located on a public or private postsecondary institution campus under certain circumstances, etc. ED 04/03/2017 Fav/CS AED 04/18/2017 Fav/CS AP 05/01/2017	
With subcommittee recommendation – Pre-K – 12 Education			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
22	CS/SB 1626 Criminal Justice / Bradley (Similar CS/H 1379, Compare CS/CS/H 481, CS/CS/CS/S 206, CS/CS/S 1554)	Department of Legal Affairs; Authorizing the Statewide Council on Human Trafficking to apply for and accept funds, grants, gifts, and services from various governmental entities or any other public or private source for a specified purpose; providing that the Attorney General has standing to assert the rights of certain qualified beneficiaries in judicial proceedings; revising the conditions under which a trustee may amend the governing instrument of a specified charitable trust to comply with specified provisions of ch. 736, F.S., etc. CJ 03/27/2017 Fav/CS ACJ 04/13/2017 Favorable AP 05/01/2017	

With subcommittee recommendation – Criminal and Civil Justice

A proposed committee substitute for the following bill (SB 1710) is available:

23	SB 1710 Stargel (Similar CS/CS/H 7057)	Education; Designating the month of September as “American Founders’ Month”; revising the duties of the Just Read, Florida! Office to include developing and providing access to certain resources for elementary schools; requiring postsecondary students to demonstrate civic literacy, etc. ED 04/03/2017 Favorable AED 04/13/2017 Fav/CS AP 04/25/2017 Not Considered AP 05/01/2017 RC	

With subcommittee recommendation – Pre-K – 12 Education

A proposed committee substitute for the following bill (SB 1760) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
24	SB 1760 Grimsley (Similar CS/H 1195, Compare CS/CS/H 7, S 676)	Health Care Facility Regulation; Eliminating state licensure requirements for clinical laboratories; authorizing the Agency for Health Care Administration to adopt rules establishing criteria for alternate-site laboratory testing; requiring the manager of a hospital or ambulatory surgical center internal risk management program to demonstrate competence in certain administrative and health care service areas; repealing provisions relating to the purpose and establishment of the Health Care Risk Manager Advisory Council; repealing provisions relating to the Subscriber Assistance Program and Statewide Managed Care Ombudsman Committee; authorizing law enforcement personnel to conduct drug tests on certain inmates and releasees, etc. HP 03/27/2017 Favorable AHS 04/18/2017 Fav/CS AP 05/01/2017 RC	
With subcommittee recommendation – Health and Human Services			
25	SB 7030 Governmental Oversight and Accountability (Similar S 1246, Compare H 143, H 5007, S 158, CS/S 1500)	Retirement; Establishing a presumption as to a firefighter's condition or impairment of health caused by certain types of cancer he or she contracts in the line of duty; authorizing renewed membership in the Florida Retirement System for retirees who are reemployed in a position eligible for the Elected Officers' Class under certain circumstances; revising criteria for eligibility of payment of death benefits to the surviving children of a Special Risk Class member killed in the line of duty under specified circumstances, etc. AP 05/01/2017	
26	CS/CS/HB 23, 1st Eng. Health Care Appropriations Subcommittee / Children, Families and Seniors Subcommittee / Eagle (Compare CS/CS/CS/H 581, CS/CS/H 1121, CS/CS/S 570, S 1016, CS/CS/CS/S 1044)	Public Assistance; Revising penalties for noncompliance with work requirements for temporary cash assistance; requiring the Department of Economic Opportunity, in cooperation with CareerSource Florida, Inc., and the Department of Children and Families, to develop and implement a work plan agreement for participants in the temporary cash assistance program; authorizing changes to public assistance policy and federal food assistance waivers to conform to federal law and simplify administration unless such changes increase program eligibility standards, etc. AP 05/01/2017	

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 1, 2017, 8:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
27	HB 7007 Health and Human Services Committee / Brodeur (Similar S 900)	State Group Insurance Program; Authorizes state group insurance program to include additional benefits & for employees to use certain portion of state's contribution to purchase additional & supplemental benefits; requires DMS to develop plan for implementation of benefit levels, submit report, & contract with independent benefits consultant & entity that provides comprehensive pricing & certain inclusive services; directs DMS to provide premium alternatives to Governor & Legislature by specified date; provides criteria for calculating premium alternatives; provides appropriation & authorizes positions. GO 04/24/2017 Fav/8 Amendments AP 05/01/2017	
28	HB 7109, 1st Eng. Ways and Means Committee / Boyd (Compare H 25, H 63, H 71, CS/H 263, H 555, H 765, CS/H 1123, S 176, CS/S 252, S 490, CS/S 664, S 768, CS/S 1156, CS/S 1202, S 1320, CS/S 1442, CS/S 1536, S 2514)	Taxation; Deletes application & renewal fees for certain licenses; deletes specified cigarette taxes from being deposited in certain trust fund for biomedical purposes; reduces tax levied on renting, leasing, letting, or granting of license for use of real property; authorizes refunds or credits of taxes paid on certain admissions; provides additional sales tax exemptions for certain agricultural products; extends expiration date of community contribution tax credit program; provides sales tax exemptions for retail sale of certain clothing, school supplies, personal computers, personal computer-related accessories; disaster preparedness supplies, & educational textbooks & instructional materials during specified periods; provides repeal dates & appropriations. AP 05/01/2017	

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 56 (215764)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Transportation Committee; and Senator Bean and others

SUBJECT: Specialty License Plates

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.	Wells	Pitts	ATD	Recommend: Fav/CS
3.	Pitts	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 56 makes numerous changes concerning special military license plates and specialty license plates. The bill:

- Increases the minimum presale requirement for specialty license plates to be produced, from 1,000 to 3,000 presale vouchers;
- Directs the DHSMV to develop 15 new specialty license plates;
- Provides that recipients of a discontinued specialty license plate may keep such plate for the remainder of the 10-year license plate replacement period without payment of the specialty plate annual use fees;
- Requires the DHSMV to distribute annual use fees to the recipient organization of a discontinued specialty plate within 180 days after the plate is discontinued, or to distribute such fees to the Highway Safety Operating Trust Fund if the organization no longer exists;
- Amends the required appearance of the Special Olympics Florida specialty license plate and the distribution of the Fallen Law Enforcement Officers license plate annual use fees;
- Effective October 1, 2020, increases the minimum sales requirement on specialty license plates, from 1,000 to 3,000 valid annual registrations;
- Effective October 1, 2020, provides exemptions from minimum registration requirements for certain specialty plates;
- Requires the DHSMV to audit, every 2 years, specialty plate organizations not subject to annual audits;

- Creates a Purple Heart license plate with the international symbol of accessibility, which is available to specified disabled veterans who are also Purple Heart recipients;
- Creates a Bronze Star license plate and plate with the “V” device emblem, which is available to recipients of the Bronze Star medal or Bronze Star medal with the “V” designation;
- Includes that the Ex-POW license plate may include the likeness of the Prisoner of War medal; and
- Makes technical changes in s 320.089, F.S., to provide clarity.

Depending on the number of plates that will be discontinued starting in October 1, 2021, the DHSMV may incur minimal programming costs associated with discontinuing specialty plates.

The DHSMV will incur costs to design and manufacture specialty plates, as well as programming costs to develop all new specialty license plates. DHSMV will also incur costs for biennial audits of specialty license plate organizations not currently required to submit annual audits. The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.¹

The DHSMV will also incur costs to create the Bronze Star plates and the Purple Heart Disabled Veteran plate. However, the DHSMV estimates such costs will have a negative, but insignificant, fiscal impact on the department.

Except as otherwise specified, the bill takes effect on October 1, 2017.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.² Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.³ The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified in the plate’s design and designated in statute.⁴

In order to establish a specialty license plate, s. 320.08053, F.S., requires the plate must first be adopted into statute. Upon becoming law:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue pre-sale vouchers for the approved specialty license plate; and
- Within 24 months after the pre-sale vouchers are established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin.

¹ Section 320.08056(7), F.S.

² A list of Florida’s specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited Feb. 14, 2017).

³ Section 320.08056, F.S.

⁴ Section 320.08058, F.S.

If, at the end of the 24-month presale period, the minimum sales requirement has not been met, the DHSMV will discontinue the plate and issuance of the presale voucher. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁵

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁶ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁷ Specifically, s. 215.97, F.S., requires annual audits of nonstate entities that expend at least \$750,000 of state financial assistance in any fiscal year.

DHSMV Costs Defrayed

The DHSMV retains sufficient annual use fees, from the sale of the specialty plates, to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.⁸

Discontinuance of Specialty Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid plate registrations falls below 1,000 registrations for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid registrations is below 1,000. Collegiate plates are exempt from the minimum plate requirement.⁹ Additionally, the specialty license plate must be discontinued if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.¹⁰

Special Olympics Florida Specialty License Plate

Section 320.08058(7), F.S., provides that the Special Olympics Florida license plate must have the word "Florida" at the bottom of the plate and the words "Everyone Wins" at the top of the plate. An organization may not redesign its specialty license plate until its current inventory is depleted. However, it may purchase the remaining inventory of the plate at cost from the DHSMV.¹¹ According to the DHSMV, there are currently 5,529 Special Olympics Florida plates in inventory. The organization could pay approximately \$15,591 to the DHSMV to deplete such inventory.¹²

⁵ Section 320.08053(2)(b), F.S.

⁶ Section 320.08056(10)(a), F.S.

⁷ Section 320.08062, F.S.

⁸ Section 320.08056(7), F.S.

⁹ Section 320.08056(8)(a), F.S.

¹⁰ Section 320.08056(8)(b), F.S.

¹¹ Section 320.08056(9), F.S.

¹² Email from the DHSMV (April 13, 2017) (on file with Senate Committee on Transportation).

Fallen Law Enforcement Officers Specialty License Plate

The Fallen Law Enforcement Officers specialty license plate was created by law in 2014¹³ with an annual fee of \$25. As of February 1, 2017, the plate had 4,689 active registrations.¹⁴ Currently, proceeds from sale of the plate are distributed to the Police and Kids Foundation, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate, and the remaining proceeds are invested and reinvested. The foundation is authorized to use the interest earnings from such investments for the operation of the foundation.¹⁵

Special Military License Plates

Currently, there are 21 special military license plates authorized in s. 320.089, F.S., available to military service members or veterans.¹⁶ Special military license plates authorized under s. 320.089, F.S., are stamped with words consistent with the type of special plate issued. For example, a special plate issued to a current or former member of the Florida National Guard is stamped with the words “National Guard.” Additionally, a likeness of the related campaign medal, ribbon, or badge appears on the plate.¹⁷

Applicants for special military license plates under s. 320.089, F.S., are required to pay the annual license tax in s. 320.08, F.S., with the exception of certain disabled veterans who qualify for the Pearl Harbor, Purple Heart, or Prisoner of War plate, to whom such plates are issued at no cost.¹⁸ With the exception of Woman Veteran plates, the first \$100,000 of revenue generated annually from the sale of special military plates is deposited into the Grants and Donations Trust Fund under the Veterans’ Nursing Homes of Florida Act, as described in s. 296.38(2), F.S. Additional revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.¹⁹

Bronze Star Medal

The Bronze Star Medal was established on February 4, 1944, to recognize those who served after December 6, 1941, in any capacity in or with the Armed Forces of the United States or a friendly foreign nation. The Bronze Star Medal is awarded to a person who distinguished himself or herself by heroic or meritorious service, not involving participation in aerial flight, in connection with military operations against an armed enemy; or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent

¹³ Chapter 2014-168, Laws of Florida

¹⁴ DHSMV website, *Monthly Active Specialty Plates* (February 2017), available at <https://services.flhsmv.gov/specialtyplates/ActivePlates.aspx> (last visited Feb. 21, 2017).

¹⁵ Section 320.08058(80), F.S.

¹⁶ The 21 military special plates currently offered in s. 320.089, F.S., include plates available for the following types of service: Veteran or Woman Veteran of the U.S. Armed Forces, World War II, Korean War, or Vietnam War Veteran, Navy Submariner, Active or retired National Guard member or U.S. Reservists, Pearl Harbor survivor, recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, Distinguished Flying Cross, or Purple Heart, former Prisoner of War, and service members or veterans of Operation Desert Shield, Desert Storm, Enduring Freedom, and Iraqi Freedom.

¹⁷ For plate samples, see Department of Highway Safety and Motor Vehicles, *Military License Plates*, available at <http://www.flhsmv.gov/specialtytags/miltags.html> (last visited March 16, 2017).

¹⁸ Section 320.089(1)(c) and (2)(a), F.S.

¹⁹ Section 320.089(1)(b), F.S.

party. Recipients of the Bronze Star Medal must be receiving imminent danger pay while serving in a geographic area authorized for special pay.²⁰ When the Bronze Star Medal is awarded for valor, the “V” device²¹ is authorized.

Since its inception, the Bronze Star Medal has been awarded to over 1.3 million recipients.²² Of those recipients, more than 176,000 were awarded the Bronze Star Medal with a “V” device for valor.²³

Disabled Veteran License Plates

A disabled veteran is eligible for one free disabled veteran license plate if he or she has been a resident of this state for the preceding five years or has established a domicile in this state, has been honorably discharged from the United States Armed Forces, and provides proof that he or she:

- Has a vehicle initially acquired through financial assistance by the United States Department of Veterans Affairs (VA) or its predecessor specifically for the purchase of an automobile;
- Has been determined by the VA or its predecessor to have a service-connected 100 percent disability rating for compensation; or
- Has been determined to have a service-connected disability rating of 100 percent and receives disability retirement pay from any branch of the United States Armed Forces.²⁴

Additionally, s. 320.0842, F.S., provides that a disabled veteran is eligible for a free disabled veteran license plate stamped with the international symbol of accessibility if he or she is eligible for both the disabled veteran license plate and proves that due to a service-connected disability he or she permanently uses a wheelchair or otherwise qualifies for a disabled parking permit.

Section 316.1964, F.S., prohibits a state agency, county, municipality, or any agency thereof from charging a person with a Disabled Veteran license plate issued under s. 320.0842, F.S., from parking fees on public streets or in metered parking if the vehicle is transporting the person to whom the plate was issued.

III. Effect of Proposed Changes:

Minimum Specialty License Plate Sale Requirements (Sections 1 and 3)

The bill increases the minimum sales requirement for specialty license plates from 1,000 to 3,000 plates. Specialty license plates that enter the 24-month presale period as of October 1, 2017, are required to sell at least 3,000 presale vouchers in order to be manufactured. Effective October 1,

²⁰ Department of the Army, *Military Awards*, Army Regulation 600-8-22 (June 25, 2015), available at http://www.apd.army.mil/epubs/DR_pubs/DR_a/pdf/web/r600_8_22.pdf at p. 50 (last visited April 12, 2017).

²¹ The “V” device is a bronze block letter worn to denote participation in acts of heroism involving conflict with an armed enemy. See *Id.* at p. 74.

²² U.S. Army Human Resources Command, *Awards and Decorations Statistics by Conflict* (Dec. 31, 2016), available at <https://www.hrc.army.mil/content/Awards%20and%20Decorations%20Statistics%20by%20Conflict> (last visited April 12, 2017).

²³ *Id.*

²⁴ Section 320.084(1), F.S.

2020, any existing specialty plate that falls below 3,000 valid registrations for at least 12 consecutive months will be discontinued.

The bill provides an exemption from the minimum sales requirement for established specialty plates of institutions in and entities of the State University System, specialty plates that have statutory eligibility limitations²⁵, and Florida Professional Sports Team license plates established under s. 320.08058(9), F.S.

As of March 1, 2017, 12 active specialty plates (excluding collegiate plates) were below 3,000 valid registrations. Of those, nine of the plates are required to maintain minimum sales under this bill. If the plates remain under 3,000 valid registrations for 12 consecutive months following October 1, 2020, they will be discontinued. Those plates are:

Specialty License Plates Below 3,000 Valid Registrations and Current Registrations			
Florida Sheriff's Association	2,778	Parents Make a Difference	1,605
Boy Scouts of America	2,421	Florida Agricultural	1,596
Big Brothers Big Sisters	2,384	American Legion	1,510
A State of Vision	2,324	Kids Deserve Justice	1,428
Family Values	2,071		

Discontinued Specialty License Plates (Section 2)

The bill allows the recipient of a specialty license plate to keep the plate for the remainder of the 10-year license plate replacement period without payment of the specialty plate annual use fees if the specialty license plate is discontinued by the DHSMV.

Additionally, if a specialty plate is discontinued, the DHSMV must distribute the annual use fees for the discontinued plate within 180 days after the plate is discontinued, less an amount sufficient to defray departmental costs incurred by the DHSMV associated with discontinuing the plate. The DHSMV is directed to deposit annual use fees into the Highway Safety Operating Trust Fund if the recipient organization for the discontinued plate no longer exists.

Proposed Specialty Plates (Sections 2 and 4)

The bill directs the DHSMV to develop 15 new specialty license plates. All of the proposed specialty license plates have an annual use fee of \$25. Each proposed plate is required to sell 3,000 presale vouchers within 24 months after the voucher is established for the plate to be produced by the DHSMV, otherwise the plate is discontinued.

Organizations receiving money from the sale of proposed specialty license plates are described below under their corresponding plate.

²⁵ For example, s 320.08058(72), F.S., requires a registrant to be a good-standing member or related to a member of the Fraternal Order of Police in order to purchase the Fraternal Order of Police specialty license plate. This appears to be the only plate exempted by this particular change.

Ducks Unlimited License Plate

The words “Conserving Florida Wetlands” must appear at the bottom of the plate, and annual use fees are distributed to Ducks Unlimited, Inc. The organization may use up to 5 percent of the fees for administrative costs and marketing of the plate, and at least 95 percent of fees must be used in Florida to support the organization’s mission and efforts for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

Ducks Unlimited, Inc.²⁶

Ducks Unlimited, Inc. is a non-profit, volunteer-based organization whose mission is to conserve, restore, and manage wetlands and associated habitats for North America’s waterfowl. The organization was created in 1937, and currently has habitat projects in all 50 states, every Canadian province, and key areas of Mexico and Latin America. In Fiscal Year 2016, the organization reported receiving revenues and support of over \$221 million, with 84 percent going to wetlands and waterfowl conservation and education.²⁷

Sun Sea Smiles License Plate

The words “Sun Sea Smiles” must appear at the bottom of the plate, and annual use fees from sale of the plate are distributed as follows:

- 35 percent to the Florida Caribbean Charitable Foundation, Inc. Of the funds received, 5 percent is for marketing the plate. From the remaining funds:
 - 60 percent is for a college scholarship program;
 - 15 percent is to promote health and wellness among Florida residents of Caribbean descent; and
 - 25 percent is to promote awareness of Caribbean culture within the state.
- 20 percent to the American Friends of Jamaica, Inc. Of which:
 - Up to 5 percent may be used for administrative and marketing expenses; and
 - The remaining funds are for grants to promote social and community development among Florida residents;
- 10 percent to Haitian Neighborhood Center Sant La, Inc. Of which:
 - Up to 5 percent may be used for administrative expenses; and
 - The remaining funds are used to promote social and community development;
- 10 percent to Fanm Ayisyen nan Miyami, Inc. Of which:
 - Up to 10 percent may be used for administrative expenses; and
 - The remaining funds are used to promote social and community development;
- 20 percent to Greater Caribbean American Cultural Coalition, Inc. Of which:
 - Up to 5 percent may be used for administrative expenses; and
 - The remaining funds are used to promote awareness of Caribbean culture within the state; and
- 5 percent to Little Haiti Optimist Foundation, Inc. Of which:
 - Up to 5 percent may be used for administrative expenses; and

²⁶ See Ducks Unlimited website, <http://www.ducks.org/> (last visited Feb. 13, 2017).

²⁷ Ducks Unlimited website, 2016 Annual Report, <http://www.ducks.org/about-ducks-unlimited/ducks-unlimited-financial-information/du-2016-annual-report> (last visited Feb. 13, 2017).

- The remaining funds are used to promote awareness of Caribbean culture and youth development within the state.

Florida Caribbean Charitable Foundation, Inc.²⁸

The Florida Caribbean Charitable Foundation, Inc. is a civic and social organization established in 2007; and is a domestic non-profit corporation located in North Miami Beach.

American Friends of Jamaica, Inc.²⁹

The organization is a non-profit established in 1982, that is “dedicated to supporting Jamaican charitable organizations and social initiatives working to improve the lives of Jamaicans through systemic development in the areas of education, healthcare and economic development.”

Haitian Neighborhood Center Sant La, Inc.³⁰

The mission of the Center is to “empower, strengthen, and stabilize South Florida’s Haitian community, through access for free services and resources, to ensure its successful integration.” This is accomplished through services such as citizenship assistance, college scholarships, community outreach, employment services, community partnerships, and educational services.

Fanm Ayisyen nan Miyami, Inc.³¹

Fanm Ayisyen nan Miyami, Inc., also known as Haitian Women of Miami, has a mission to empower Haitian women and their families socially and politically, and to facilitate their adjustments to South Florida. The organization provides counseling, outreach, education, access to care, and advocacy services to low and moderate-income families.

Greater Caribbean American Cultural Coalition, Inc.³²

The Coalition is “an umbrella organization serving the Caribbean people and other members of the community, by bringing together the various Caribbean countries and Islands, and their rich cultural heritage.” The coalition’s mission is to enrich the cultural environment by fostering multicultural understanding through an appreciation of Caribbean cultures.

Little Haiti Optimist Foundation, Inc.³³

Little Haiti Optimist Foundation, Inc., is a charitable organization located in Miami, and established in 2010 to provide assistance, guidance, and programs to the youth of Little Haiti.

²⁸ Florida Department of State - Division of Corporations, *Florida Caribbean Charitable Foundation, Inc.*, <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FLORIDACARIBBEANCHARITABLEFOUN%20N070000070260&aggregateId=domnp-n07000007026-231a2bc8-5eb0-42f9-8fa3-f6660756ccc1&searchTerm=florida%20caribbean%20charitable%20foundation&listNameOrder=FLORIDACARIBBEANCHARITABLEFOUN%20N070000070260> (last visited Feb. 10, 2017).

²⁹ The American Friends of Jamaica website, *About Us*, <https://theafj.org/about-us/> (last visited Feb. 10, 2017).

³⁰ See Haitian Neighborhood Center Sant La website, <http://santla.org> (visited April 12, 2017).

³¹ See Fanm Ayisyen nan Miyami website, <http://www.fanm.org/> (last visited Feb. 10, 2017).

³² Greater Caribbean American Cultural Coalition website, *About Us*, <http://www.gcaccoalition.com/> (last visited Feb. 10, 2016).

³³ See The Little Haiti Optimist Club website at <http://www.littlehaitioptimist.org/> (last visited Feb. 10, 2017).

The organization is affiliated with the International Optimist association, a network of over 3,000 Optimist Clubs around the world dedicated to “Bringing Out the Best in Kids.”

Alpha Phi Alpha Fraternity License Plate

The name of the fraternity must appear at the bottom of the plate, and annual use fees are distributed as follows:

- 5 percent for the United Negro College Fund (UNCF) to be used for scholarships for Florida residents attending historically black colleges and universities;
- 10 percent to the Florida Federation of Alpha Chapters to market the plate; and
- 85 percent to the Florida Federation of Alpha Chapters to promote community awareness and action through educational, economic, and cultural service activities.

United Negro College Fund (UNCF)³⁴

In 1944, the UNCF was founded to help more African American students attend and graduate from college. The UNCF accomplishes this goal by awarding scholarships, providing financial support to 37 historically black colleges and universities, and by advocating for the importance of minority education and community engagement.

Florida Federation of Alpha Chapters³⁵

Alpha Phi Alpha “develops leaders, promotes brotherhood and academic excellence, while providing service and advocacy for our communities.” The Fraternity’s programs and projects include community outreach mentoring initiatives.

According to corporate filings with the Department of State, The Florida Federation of Alpha Chapters, Inc., voluntarily dissolved its Florida corporation in 2012.³⁶

Omega Psi Phi Fraternity License Plate

The name of the fraternity must appear at the bottom of the plate, and annual use fees are distributed as follows:

- 5 percent for the UNCF to be used for scholarships for Florida residents attending historically black colleges and universities;
- 10 percent to State of Florida Omega Friendship Foundation, Inc. to market the plate; and
- 85 percent to State of Florida Omega Friendship Foundation, Inc. to promote community awareness and action through educational, economic, and cultural service activities.

³⁴ See United Negro College Fund website, <https://www.uncf.org/> (last visited Feb. 24, 2017).

³⁵ See Florida Federation of Alpha Chapters website, <http://flfederation.org/about-us/> (last visited Feb. 24, 2017).

³⁶ See Department of State – Division of Corporations, *The Florida Federation of Alpha Chapters, Inc.*, <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FLORIDAFEDERATIONALPHACHAPTERS%207667210&aggregateId=domnp-766721-dab6eb78-11a9-47b0-b1ec-1eeea3ac1b98&searchTerm=florida%20federation%20of%20alpha%20chapters&listNameOrder=FLORIDAFEDERATIONALPHACHAPTERS%207667210> (last visited Mar. 7, 2017).

State of Florida Omega Friendship Foundation, Inc.

Omega Psi Phi Fraternity, Inc. was the first international fraternal organization to be founded on the campus of a historically black college. Founded in 1911, at Howard University, “Manhood, Scholarship, Perseverance and Uplift” were adopted as cardinal principles of the organization.³⁷

According to corporate filings with the Department of State, the corporation was organized to work and uplift humanity, mentor youth, sponsor blood drives, raise money for scholarships and charitable causes, and encourage members to make a difference in the lives of Black people.³⁸

Kappa Alpha Psi Fraternity License Plate

The name of the fraternity must appear at the bottom of the plate, and annual use fees are distributed as follows:

- 5 percent for the UNCF to be used for scholarships for Florida residents attending historically black colleges and universities;
- 10 percent to Southern Province of Kappa Alpha Psi Fraternity, Inc., to market the plate; and
- 85 percent to Southern Province of Kappa Alpha Psi Fraternity, Inc. to promote community awareness and action through educational, economic, and cultural service activities.

Southern Province of Kappa Alpha Psi Fraternity, Inc.³⁹

Kappa Alpha Psi was founded in 1911, on the campus of Indiana University at Bloomington, Indiana. The objectives of this fraternity are to:

- Unite men of culture, patriotism, and honor in a bond of fraternity;
- Encourage honorable achievement in every field of human endeavor;
- Promote the spiritual, social, intellectual, and moral welfare of members;
- Assist the aims and purposes of colleges and universities; and
- Inspire service in the public interest.

According to corporate filings with the Department of State, the Southern Province of Kappa Alpha Psi Foundation, Inc. was organized to support the charitable and educational activities of the Kappa Alpha Psi fraternal organization.⁴⁰

Phi Beta Sigma Fraternity License Plate

The name of the fraternity must appear at the bottom of the plate, and annual use fees are distributed as follows:

- 5 percent for the UNCF to be used for scholarships for Florida residents attending historically black colleges and universities;
- 10 percent to the TMB Charitable Foundation, Inc., to market the plate; and

³⁷ See Omega Friendship Foundation, Inc. website, http://oppf.org/about_omega.asp (last visited Jan. 29, 2016).

³⁸ See Department of State – Division of Corporations, *The State of Florida Omega Friendship Foundation, Inc.* (Dec. 2008) <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2008%5C1212%5C38662819.Tif&documentNumber=N08000011146> (last visited Feb. 24, 2017).

³⁹ See Southern Province Kappa Alpha Psi Fraternity, Inc. website, <http://southernprovince.org/> (last visited Feb. 27, 2017).

⁴⁰ See Department of State – Division of Corporations, *Southern Province of Kappa Alpha Psi Foundation, Inc.* (July 2002), <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2002%5C0723%5C50481755.tif&documentNumber=N02000005456> (last visited Feb. 24, 2017).

- 85 percent to the TMB Charitable Foundation, Inc., to promote community awareness and action through educational, economic, and cultural service activities.

TMB Charitable Foundation, Inc.⁴¹

According to corporate filings with the Department of State, the Foundation's principal address is in Tallahassee, Florida. The Foundation is a not-for-profit corporation "operated exclusively for charitable purposes, including, without limitation, acting as an instrument to which youth are encouraged and inspired to achieve academic success through mentoring."

Zeta Phi Beta Sorority License Plate

The name of the sorority must appear at the bottom of the plate, and annual use fees are distributed as follows:

- 5 percent for the UNCF to be used for scholarships for Florida residents attending historically black colleges and universities;
- 10 percent to the Florida Pearls, Inc. to market the plate; and
- 85 percent to the Florida Pearls, Inc. to promote community awareness and action through educational, economic, and cultural service activities.

The Florida Pearls, Inc.⁴²

The Florida Pearls, Inc. is a not-for-profit corporation established to provide Florida communities with scholarships, health initiative programs, cultural and humanities program, youth programs, and feeding the hungry programs.

According to corporate filings with the Department of State, the corporation was organized "to provide Scholarships, Educational, Cultural, Community Workshops, and Training Programs in the State of Florida."⁴³

Delta Sigma Theta Sorority License Plate

The name of the sorority must appear at the bottom of the plate, and annual use fees are distributed as follows:

- 5 percent for the UNCF to be used for scholarships for Florida residents attending historically black colleges and universities;
- 10 percent to the Delta Research and Educational Foundation to market the plate; and
- 85 percent to the Delta Research and Educational Foundation to promote community awareness and action through educational, economic, and cultural service activities.

⁴¹ See Department of State – Division of Corporations, *TMB Charitable Foundation, Inc.* (April 2014), <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2014%5C0411%5C58641349.Tif&documentNumber=N14000003486> (last visited Feb. 27, 2017).

⁴² The Florida Pearls, Incorporated, brochure, available at: <http://www.zphibfl.org/Forms/Brochure-%20The%20Florida%20Pearls,%20Inc..pdf> (last visited Feb. 27, 2017).

⁴³ See Department of State – Division of Corporations, *The Florida Pearls, Incorporated* (Dec. 2009), <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2009%5C1229%5C63408512.Tif&documentNumber=N09000012079> (last visited Feb. 27, 2017).

Delta Research and Educational Foundation⁴⁴

The Delta Research and Educational Foundation is a charitable, not-for-profit organization. Delta Sigma Theta Sorority established the Foundation in 1967. The Foundation's mission is to promote "research which identifies and fashions solutions to issues affecting African American women and their families, nationally and globally through funding and support of programs of the sorority and collaborative organizations."

Alpha Kappa Alpha Sorority License Plate

The name of the sorority must appear at the bottom of the plate, and annual use fees are distributed as follows:

- 5 percent for the UNCF to be used for scholarships for Florida residents attending historically black colleges and universities;
- 10 percent to the Alpha Kappa Alpha Educational Advancement Foundation, Inc. to market the plate; and
- 85 percent to the Alpha Kappa Alpha Educational Advancement Foundation, Inc. to promote community awareness and action through educational, economic, and cultural service activities.

Alpha Kappa Alpha Educational Advancement Foundation, Inc.

The Alpha Kappa Alpha Educational Advancement Foundation, Inc. is a charitable, not-for-profit organization. Alpha Kappa Alpha Sorority, Inc. created the Foundation in 1980 with a mission "to promote lifelong learning. This is accomplished by securing charitable contributions, gifts and endowed funds to award scholarships, fellowships and grants."⁴⁵

Sigma Gamma Rho Sorority License Plate

The name of the sorority must appear at the bottom of the plate, and annual use fees are distributed as follows:

- 5 percent for the UNCF to be used for scholarships for Florida residents attending historically black colleges and universities;
- 10 percent to the Sigma Gamma Rho Sorority National Education Fund, Inc. to market the plate; and
- 85 percent to the Sigma Gamma Rho Sorority National Education Fund, Inc. to promote community awareness and action through educational, economic, and cultural service activities.

Sigma Gamma Rho Sorority National Education Fund, Inc.⁴⁶

The Sigma Gamma Rho Sorority National Education Fund, Inc. is a charitable, not-for-profit organization. Sigma Gamma Rho Sorority developed the Fund with a mission to provide scholarship aid to needy students and to conduct educational programs, workshops, symposiums, and forums to enhance the quality of life.

⁴⁴ See Delta Sigma Theta Sorority website, *Delta Research and Education Foundation*, http://www.deltasigmatheta.org/programs_delta_foundation.html (last visited Feb. 27, 2017).

⁴⁵ Alpha Kappa Alpha Educational Advancement Foundation website, <http://www.akaef.org/> (last visited Feb. 27, 2017).

⁴⁶ See Sigma Gamma Rho Sorority, *National Education Fund*, <http://sgrho1922.celect.org/nef> (last visited Feb. 27, 2017).

Dan Marino Foundation License Plate

The words “Marino Campus” must appear at the bottom of the plate, and annual use fees from the sale of the plate are distributed to the Dan Marino Foundation, Inc., a Florida nonprofit corporation. The Foundation may use up to ten percent of such fees for administrative costs and marketing of the plate. The remainder of the proceeds shall be used by the Foundation to assist Floridians with developmental disabilities to become employed, independent, and productive, and to promote and fund educational scholarships and awareness of these services.

The Dan Marino Foundation⁴⁷

The Dan Marino Foundation is a nonprofit organization dedicated to improving the lives of persons with autism or other developmental disabilities. The Foundation was founded in 1992, and provides numerous programs and services, including:

- Marino Campus, “an intensive 10-month post-secondary educational program to help young adults with autism and other developmental disabilities bridge the gap between high school and employment”;
- ViTA DMF, virtual reality software and curriculum designed to help young adults with autism practice job interviewing skills;
- The Marino Autism Research Institute, which funded the science behind the ViTA DMF and funds the Marino Scholars Program at Vanderbilt University; and
- The Nicklaus Children’s Dan Marino Outpatient Center.

Florida State Beekeepers Association License Plate

The words “Save the Bees” must appear at the bottom of the plate, and annual use fees are distributed to the Florida State Beekeepers Association, which may use up to 18 percent of the annual fees to reimburse administrative costs, startup costs, and costs incurred in the development and approval process of the plate, and promotion and marketing costs. Vendors associated with the administrative costs must be selected by competitive bid.

The remaining funds are used to raise awareness of the importance of beekeeping to Florida agriculture by funding honeybee research, education, outreach, and husbandry. The bill provides that the Association’s board of managers must approve and is accountable for all such expenditures.

Florida State Beekeepers Association⁴⁸

The Florida State Beekeepers Association, Inc. is a Florida nonprofit⁴⁹ with a mission to provide resources for the improvement of beekeeping, to promote the development of practical

⁴⁷ See The Dan Marino Foundation website, <https://danmarinofoundation.org/> (last visited Feb. 27, 2017).

⁴⁸ See Florida State Beekeepers Association website, <http://www.floridabeekeepers.org/> (last visited Mar. 11, 2017).

⁴⁹ According to corporate filings with the Department of State, Sunbiz.org, The Association has been incorporated with the state since 1971. Available at <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FLORIDASTATEBEEKEEPERSASSOCIAT%207212370&aggregateId=domnp-721237-2d1c24d7-c677-4df4-aedf-> (last visited Mar. 15, 2017).

beekeeping methods in Florida, and to act in the interest of Florida beekeepers in state and national beekeeping affairs.

Orlando United License Plate

The words “Orlando United” must appear at the bottom of the plate, and annual use fees are distributed as follows:

- Thirty-eight percent to the Mental Health Association of Central Florida, Inc.;
- Thirty-one percent to the Hispanic Federation, Inc. to be used through the Proyecto Somos Orlando campaign; and
- Thirty-one percent to Two Spirit Health Services, Inc.

Each organization may use up to 5 percent for administrative expenses. The Mental Health Association of Central Florida, Inc. is to use 7 percent of the proceeds for marketing of the plate. The remainder of the proceeds must be used to offer free personalized counseling to any person affected by the shooting at the Pulse Nightclub in Orlando, Florida, on June 12, 2016.

The Mental Health Association of Central Florida, Inc.⁵⁰

The mission of The Mental Health Association of Central Florida, Inc. is “to provide mental health services, support and information to the members of our Central Florida community.” The organization does this by offering a free Mental Health Connections program for individuals; providing a Guardian Advocate Training program; overseeing Reflections, a peer-driven recovery community; taking part in community outreach; running an anti-suicide campaign; and partnering with Orange County Government and Florida Hospital to treat uninsured individuals with anxiety or depression, and accompanying medical conditions at the Outlook Clinic.

The Hispanic Federation, Inc.⁵¹

The Hispanic Federation, Inc. is a nonprofit organization founded in 1990, which “seeks to support Hispanic families and strengthen Latino institutions through work in the areas of education, health, immigration, civic engagement, economic empowerment, and the environment.” The organization offers membership and advocacy services, as well as community assistance programs. Following the Orlando shooting at Pulse Nightclub, the Hispanic Federation joined forces with Latino-led institutions to create Proyecto Somos Orlando to address long-term needs for mental health services that are culturally competent and bilingual. The campaign provides case management, crisis intervention, and mental health services.

Two Spirit Health Services, Inc.⁵²

Two Spirit Health Services is a non-profit organization incorporated in 2011, which provides mental health, behavioral, substance abuse, primary care, transgender health and related services to individuals in the Lesbian, Gay, Bisexual, and Transgender (LGBT) community in the Central Florida area. The organization’s mission to create a “one-stop shop” health organization for LGBT people, regardless of ability to pay, to get healthcare and wellness services “in an

⁵⁰ See Mental Health Association of Central Florida website, <https://www.mhacf.org/> (last visited Mar. 11, 2017).

⁵¹ See Hispanic Federation website, <http://hispanicfederation.org/> (last visited Mar. 11, 2017).

⁵² See Two Spirit Health Services, Inc. website, <http://twospirithealth.org/> (last visited Mar. 11, 2017).

environment that is culturally competent and delivered by a diverse staff that is comprised of the LGBT community.”

Ethical Ecotourism License Plate

Proceeds from the sale of the plate are distributed equally between the Florida Society for Ethical Ecotourism (Florida SEE) and Paddle Florida, Inc. Florida SEE must use its share of the proceeds to provide environmental education and awareness that encourages behaviors that contribute to the sustainability of Florida’s natural ecosystems and resources. Paddle Florida, Inc. must use its share of the proceeds to raise awareness about water conservation, wildlife preservation, restoration of springs, and protection of waterways in this state. Each organization may use up to 10 percent of the proceeds for administrative costs and to market the plate.

Florida Society for Ethical Ecotourism (Florida SEE)

Florida SEE was created in 1998 to establish and maintain a professional code of ecotourism ethics to encourage an awareness and stewardship of Florida's natural heritage.⁵³ Florida SEE operates a certification program that recognizes ecotourism guides who contribute to the environmental, social, and economic sustainability of Florida.⁵⁴ Certified Florida SEE Ecotour Providers are recognized as preferred service providers committed to using best practices for ecological sustainability, natural area management, and quality ecotourism experience.

Paddle Florida, Inc.⁵⁵

Paddle Florida, Inc. is a non-profit corporation that offers paddling events in each of Florida’s five water management districts and is recognized by Florida SEE as one of its certified Ecotour Providers. Paddle Florida partners with local outfitters that provide canoes, kayaks and gear for trips that last 30 miles to more than 70 miles. The organization also provides Florida-based entertainment, educational programing, and staff who scout waterways in advance to ensure safe tours.

Rotary License Plate

The word “Rotary” must appear at the bottom of the plate, and annual use fees are distributed to the Community Foundation of Tampa Bay, Inc., who distributes the funds as follows:

- Up to 10 percent for administrative costs and for marketing the plate;
- 10 percent to Rotary’s Camp Florida for direct support to all programs and services provided to special needs children who attend the camp; and
- The remainder must be distributed, proportionally based on sales, to each Rotary district in the state in support of Rotary youth programs in Florida.

⁵³ Florida SEE website, *About Florida SEE*, http://www.floridasee.org/about_florida_see.php (last visited Mar. 30, 2017).

⁵⁴ Florida SEE website, *Certification, Overview and Eligibility*, <http://www.floridasee.org/certification.php> (last visited March 30, 2017).

⁵⁵ Florida SEE website, *Paddle Florida*, http://www.floridasee.org/paddle_florida.php (last visited March 30, 2017).

Rotary's Camp Florida⁵⁶

Rotary's Camp Florida is a non-profit organization providing camping facilities to children and adults with special needs. The facility is a 21-acre camp located in Brandon, Florida, which provides user groups with clean, safe, and barrier-free camping. The facility meets the full standards of the Americans with Disabilities Act. The Camp does not provide programming, but provides, from Florida's Rotary Club donations, special needs user groups deeply discounted rates to use the camp facilities.

Amending Existing Specialty Plates (Section 4)

Special Olympics Florida License Plate

The bill amends the Special Olympics Florida license plate to require the top of the plate display the word "Florida" and the bottom display the words "Be a Fan."

Fallen Law Enforcement Officers License Plate

The bill amends the distribution of annual use fees from the sale of the Fallen Law Enforcement Officers specialty license plate to allow the Police and Kids Foundation, Inc. to use at least 90 percent of the proceeds of the license plate sales (rather than just the interest earnings thereon) for the foundation's operations, activities, programs, and projects.

Specialty License Plate Audits and Attestations (Section 5)

The bill requires the DHSMV to audit organizations every 2 years that receive specialty license plate fees and are not required to submit an annual audit pursuant to s. 215.97, F.S.

Special Military License Plates (Sections 6 and 7)

The bill makes technical changes throughout s. 320.089, F.S., to provide clarity, and to specify that the Ex-POW plate may also include a likeness of the Prisoner of War Medal.⁵⁷ Currently, the license plate must only be stamped with the words "Ex-POW."

Bronze Star

The bill amends s. 320.089, F.S., to direct the DHSMV to create two special license plates for recipients of the Bronze Star Medal and recipients of the Bronze Star Medal with the "V" device for valor. One plate will be stamped with the words "Bronze Star" and a likeness of the Bronze Star Medal. The other plate will be stamped with the words "Bronze Star" and a likeness of the Bronze Star Medal with the "V" device emblem.

To receive the Bronze Star special license plate the individual must submit an application to the DHSMV, provide proof that he or she is a Bronze Star Medal or Bronze Star Medal with the "V" device recipient, and pay the appropriate license tax. Revenue generated from the sale of the

⁵⁶ See Rotary's Camp Florida website, <http://www.rotaryscampflorida.org/> (last visited April 12, 2017).

⁵⁷ For information about the Prisoner of War Medal, see U.S. Air Force, *Fact Sheets: Prisoner of War Medal* (Aug. 4, 2010), available at <http://www.afpc.af.mil/About-Us/Fact-Sheets/Display/Article/421934/prisoner-of-war-medal> (last visited Mar 13, 2017).

Bronze Star plates is deposited in the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund.

Purple Heart Disabled Veteran License Plate

The bill creates a Purple Heart license plate stamped with the term “Combat-wounded Veteran” and the international symbol of accessibility. The plate is available to persons who qualify for both the Purple Heart military license plate and the Disabled Veteran license plate issued under s. 320.0842, F.S. The plate is issued at no cost to the disabled veteran, and the eligible applicant must be noted on the registration certificate.

Effective Date (Section 8)

With the exception of section 3 of the bill, which takes effect October 1, 2020, the bill takes effect October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will have a negative impact on organizations and programs funded from a specialty plate that does not meet the increased minimum sales requirement and is subsequently discontinued.

Individuals who choose to purchase a specialty license plate will pay a \$25 annual use fee in addition to appropriate license taxes and fees, and the plate’s recipient organization or organizations will receive revenue from each plate purchase.

The Police and Kids Foundation, Inc. will be able to use the proceeds from the sale of the Fallen Law Enforcement Officers license plate (rather than only the interest earnings on those proceeds) for its operations, activities, programs, and projects.

C. Government Sector Impact:

The DHSMV estimates programming and implementation of each new specialty license plate will cost \$7,245.⁵⁸ DHSMV will also incur costs for biennial audits of specialty license plate organizations that do not currently submit annual audits. The cost of these audits is unknown. The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.⁵⁹

Depending on the number of plates that will be discontinued starting in October 1, 2021, the DHSMV may incur minimal programming costs associated with discontinuing specialty plates.

The DHSMV will also incur costs to create the Bronze Star plates and the Purple Heart Disabled Veteran plate. However, the DHSMV estimates such costs will have a negative, but insignificant, fiscal impact on the department.

To the extent that people purchase the Bronze Star plate, the bill may have a positive impact on the State Homes for Veterans Trust Fund and the Grants and Donations Trust Fund administered by the Florida Department of Veterans' Affairs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill allows a person to keep their specialty license plate for the remainder of the plate's 10-year replacement cycle if it is discontinued by the DHSMV. If a plate is discontinued because the organization no longer exists, issues could arise if the name of the organization or any slogan, emblem, logo, or internet domain name on the plate are taken over by another entity.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08053, 320.08056, 320.08058, 320.08062, 320.0842, and 320.089.

IX. Additional Information:

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

**Recommended CS/CS by Appropriations Subcommittee on Transportation,
Tourism, and Economic Development on April 13, 2017:**
The CS:

⁵⁸ DHSMV, *2017 Agency Legislative Bill Analysis: SB 56* (Jan. 6, 2017) (on file with the Senate Committee on Transportation).

⁵⁹ Section 320.08056(7), F.S.

- Increases the minimum presale requirement for specialty plates to be produced, from 1,000 to 3,000 vouchers;
- Directs the DHSMV to develop 16 additional specialty license plates;
- Allows the recipient of a discontinued specialty license plate to keep the plate for the remainder of the 10-year license plate replacement period without payment of the specialty plate annual use fees;
- Requires the DHSMV to distribute the annual use fees for a discontinued specialty license plate within 180 days after the plate is discontinued, less an amount sufficient to defray departmental costs associated with the discontinuance;
- Provides that if the recipient organization of the discontinued specialty plate no longer exists, the remaining annual use fees shall be deposited into the Highway Safety Operating Trust Fund;
- Amends the Special Olympics Florida license plate to require the top of the plate display the word “Florida” and the bottom display the words “Be a Fan”;
- Effective October 1, 2020, increases the minimum registration requirement of established specialty license plates, from 1,000 to 3,000 annual registrations;
- Effective October 1, 2020, exempts from the minimum registration requirements license plates of institutions in and entities of the State University System, specialty plates with statutory eligibility limitations for purchase, and Florida Professional Sports Team license plates established under s. 320.08058(9), F.S.;
- Requires the DHSMV to audit, every 2 years, specialty plate organizations that are not subject to annual audits to ensure proceeds have been used in compliance with ss. 320.08056 and 320.08058, F.S.;
- Creates a Purple Heart plate with the international accessibility symbol available to disabled veterans who qualify for both the Purple Heart plate and the disabled veteran with the international accessibility symbol plate;
- Makes technical changes to s. 320.089, F.S., related to military service-related special license plates;
- Creates a Bronze Star license plate available to recipients of the Bronze Star medal and a Bronze Star license plate with the “V” device emblem for recipients of such designation; and
- Includes that the Ex-POW plate may include the likeness of the Prisoner of War Medal.

CS by Transportation on February 21, 2017:

The CS:

- Clarifies that Ducks Unlimited, Inc. is to use the proceeds received from the Ducks Unlimited specialty plate within Florida.
- Amends the distribution of the Fallen Law Enforcement Officers specialty license plate to allow the Police and Kids Foundation, Inc. to use the remaining proceeds from the sale of the plate, after up to 10 percent is used for marketing, for the organization’s operations, activities, programs, and projects.

B. Amendments:

None.

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



437048

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 130 - 141

and insert:

Section 4. Paragraph (a) of subsection (7), paragraph (b) of subsection (66), and paragraph (b) of subsection (80) of section 320.08058, Florida Statutes, are amended, and subsections (84) through (98) are added to that section, to read:

320.08058 Specialty license plates.—



437048

(7) SPECIAL OLYMPICS FLORIDA LICENSE PLATES.—

(a) Special Olympics Florida license plates must contain the official Special Olympics Florida logo and must bear a design and colors that are approved by the department. The word "Florida" must be centered at the top ~~bottom~~ of the plate, and the words "Be a Fan" ~~"Everyone Wins"~~ must be centered at the bottom ~~top~~ of the plate.

(66) IN GOD WE TRUST LICENSE PLATES.—

(b) The license plate annual use fees shall be distributed to the In God We Trust Foundation, Inc., to fund the Florida Veterans Foundation for the benefit of the Florida Veterans Emergency Financial Assistance Program. Additionally, the In God We Trust Foundation, Inc., shall use the fees to fund educational scholarships for the children of Florida residents who are members of the United States Armed Forces, the National Guard, and the United States Armed Forces Reserve and for the children of public safety employees who have died in the line of duty who are not covered by existing state law. Funds shall also be distributed to other s. 501(c)(3) organizations that may apply for grants and scholarships and to provide educational grants to public and private schools to promote the historical and religious significance of American and Florida history. The In God We Trust Foundation, Inc., shall distribute the license plate annual use fees in the following manner:

1. The In God We Trust Foundation, Inc., shall retain all revenues from the sale of such plates until all startup costs for developing and establishing the plate have been recovered.

2. Ten percent of the funds received by the In God We Trust Foundation, Inc., shall be expended for administrative costs,



437048

promotion, and marketing of the license plate directly
associated with the operations of the In God We Trust
Foundation, Inc.

3. Fifty percent of the funds shall be awarded to the
Florida Veterans Foundation for the benefit of the Florida
Veterans Emergency Financial Assistance Program.

4.3. The ~~All~~ remaining funds shall be expended by the In
God We Trust Foundation, Inc., for other programs pursuant to
this paragraph.

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

And the title is amended as follows:

Delete line 11

and insert:

In God We Trust and Fallen Law Enforcement Officers
license plates;



651502

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 320.08053, Florida Statutes, is amended
to read:

320.08053 Establishment of ~~Requirements for requests to~~
~~establish~~ specialty license plates.—

(1) If a specialty license plate requested by an
organization is approved by law, the organization must submit



651502

the proposed art design for the specialty license plate to the department, in a medium prescribed by the department, as soon as practicable, but no later than 60 days after the act approving the specialty license plate becomes a law.

(2)(a) Within 120 days following the specialty license plate becoming law, the department shall establish a method to issue a specialty license plate voucher to allow for the presale of the specialty license plate. The processing fee as prescribed in s. 320.08056, the service charge and branch fee as prescribed in s. 320.04, and the annual use fee as prescribed in s. 320.08056 shall be charged for the voucher. All other applicable fees shall be charged at the time of issuance of the license plates.

(b) Within 24 months after the presale specialty license plate voucher is established, the approved specialty license plate organization must record with the department a minimum of 3,000 ~~1,000~~ voucher sales before manufacture of the license plate may begin ~~commence~~. If, at the conclusion of the 24-month presale period, the minimum sales requirement has ~~requirements have~~ not been met, the specialty plate is deauthorized and the department shall discontinue development of the plate and discontinue issuance of the presale vouchers. Upon deauthorization of the license plate, a purchaser of the license plate voucher may use the annual use fee collected as a credit towards any other specialty license plate or apply for a refund on a form prescribed by the department.

(3)(a) If the Legislature has approved 125 or more specialty license plates, the department may not make any new specialty license plates available for design, presale, or



651502

issuance until a sufficient number of plates are discontinued pursuant to s. 320.08056(8) such that the number of plates being issued is reduced to fewer than 125.

(b) New specialty license plates that have been approved by law but are awaiting issuance under paragraph (a) shall be issued in the order they appear in s. 320.08056(4). All other provisions of this section must also be met before a plate is issued.

Section 2. Present paragraphs (ff) through (ddd), present paragraphs (fff) through (ppp), present paragraphs (sss) through (eeee) of subsection (4) of section 320.08056, Florida Statutes, are redesignated as paragraphs (ee) through (ccc), paragraphs (ddd) through (nnn), and paragraphs (ooo) through (aaaa), respectively, and present paragraphs (ee), (eee), (qqq), and (rrr) of that subsection are amended, and new paragraphs (bbbb) through (eeee) and paragraphs (ffff) through (bbbbbb) are added to that subsection, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(ee) American Red Cross license plate, \$25.~~

~~(eee) Donate Organs Pass It On license plate, \$25.~~

~~(qqq) St. Johns River license plate, \$25.~~

~~(rrr) Hispanic Achievers license plate, \$25.~~

(bbbb) Ducks Unlimited license plate, \$25.

(cccc) Play Ball license plate, \$25.

(dddd) America the Beautiful license plate, \$25.

(eeee) Protect Pollinators plate, \$25.

(ffff) Florida Native license plate, \$25.



651502

69 (gggg) Donate Life Florida license plate, \$25.
70 (hhhh) Sun Sea Smiles license plate, \$25.
71 (iiii) Omega Psi Phi Fraternity license plate, \$25.
72 (jjjj) Delta Sigma Theta Sorority license plate, \$25.
73 (kkkk) Sigma Gamma Rho Sorority license plate, \$25.
74 (llll) Kappa Alpha Psi Fraternity license plate, \$25.
75 (mmmm) Alpha Kappa Alpha Sorority license plate, \$25.
76 (nnnn) Alpha Phi Alpha Fraternity license plate, \$25.
77 (oooo) Zeta Phi Beta Sorority license plate, \$25.
78 (pppp) Phi Beta Sigma Fraternity license plate, \$25.
79 (qqqq) Iota Phi Theta Fraternity license plate, \$25.
80 (rrrr) Dan Marino Foundation license plate, \$25.
81 (ssss) Florida State Beekeepers Association license plate,
82 \$25.
83 (tttt) Orlando United license plate, \$25.
84 (uuuu) Ethical Ecotourism license plate, \$25.
85 (vvvv) Rotary license plate, \$25.
86 (www) Auburn University license plate, \$50.
87 (xxxx) Beat Childhood Cancer license plate, \$25.
88 (yyyy) American Eagle license plate, \$25.
89 (zzzz) Florida Bay Forever license plate, \$25.
90 (aaaaa) Bonfish and Tarpon Trust license plate, \$25.
91 (bbbbb) University of Georgia license plate, \$50.
92 (8)
93 (c) A person issued a specialty license plate that has been
94 discontinued by the department may keep the discontinued
95 specialty license plate for the remainder of the 10-year license
96 plate replacement period and must pay all other applicable
97 registration fees. However, such person is exempt from paying



651502

the applicable specialty license plate fee under subsection (4)
for the remainder of the 10-year license plate replacement
period.

(d) If the department discontinues issuance of a specialty
license plate, all annual use fees held or collected by the
department shall be distributed within 180 days after the date
the specialty license plate is discontinued. Of those fees, the
department shall retain an amount sufficient to defray the
applicable administrative and inventory closeout costs
associated with discontinuance of the plate. The remaining funds
shall be distributed to the specified organization or
organizations as provided in s. 320.08058.

(e) If an organization that is the intended recipient of
the funds pursuant to s. 320.08058 no longer exists, the
department shall deposit any undisbursed funds into the Highway
Safety Operating Trust Fund.

(f) Notwithstanding paragraph (a), on January 1 of each
year, the department shall discontinue the specialty license
plate with the fewest number of plates in circulation over the
previous 24 months. A warning letter shall be mailed to the
sponsoring organization following the first month in which the
total number of valid specialty license plate registrations is
the fewest in circulation over the previous 24 months.

(10) (a) A specialty license plate annual use fee collected
and distributed under this chapter, or any interest earned from
those fees, may not be used for commercial or for-profit
activities nor for general or administrative expenses, except as
authorized by s. 320.08058 or to pay the cost of the audit or
report required by s. 320.08062(1). The fees and any interest



651502

earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4)(d), (bb), (kk), (iii), and (uuu) ~~(ll), (kkk), and (yyy)~~ and s. 320.0891 or out-of-state college or university license plates pursuant to paragraphs (4)(www) and (bbbbbb).

Section 3. Effective October 1, 2020, paragraph (a) of subsection (8) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(8)(a) The department must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 3,000 ~~1,000~~ plates for at least 12 consecutive months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 3,000 ~~1,000~~ plates. This paragraph does not apply to collegiate license plates established under s. 320.08058(3), license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, or Florida Professional Sports Team License plates established under s. 320.08058(9).

Section 4. Present subsections (32) through (56), present subsections (58) through (68), and present subsections (71) through (83) of section 320.08058, Florida Statutes, are redesignated as subsections (31) through (55), subsections (56) through (66), and (67) through (79), respectively, paragraph (a) of subsection (7), present subsections (31) and (57), paragraph



651502

(b) of present subsection (66), present subsections (69) and (70), and paragraph (b) of present subsection (80) of that section are amended, and new subsections (80) through (83) and subsections (84) through (106) are added to that section, to read:

320.08058 Specialty license plates.—

(7) SPECIAL OLYMPICS FLORIDA LICENSE PLATES.—

(a) Special Olympics Florida license plates must contain the official Special Olympics Florida logo and must bear a design and colors that are approved by the department. The word "Florida" must be centered at the top ~~bottom~~ of the plate, and the words "Be a Fan" "~~Everyone Wins~~" must be centered at the bottom ~~top~~ of the plate.

~~(31) AMERICAN RED CROSS LICENSE PLATES.—~~

~~(a) Notwithstanding the provisions of s. 320.08053, the department shall develop an American Red Cross license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "American Red Cross" must appear at the bottom of the plate.~~

~~(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, 50 percent of the annual use fees shall be distributed to the American Red Cross Chapter of Central Florida, with statistics on sales of license plates, which are tabulated by county. The American Red Cross Chapter of Central Florida must distribute to each of the chapters in this state the moneys received from sales in the counties covered by the respective chapters, which moneys must be used for education and disaster relief in Florida. Fifty~~



651502

~~percent of the annual use fees shall be distributed proportionately to the three statewide approved poison control centers for purposes of combating bioterrorism and other poison-related purposes.~~

~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.—~~

~~(a) The department shall develop a Donate Organs-Pass It On license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Donate Organs-Pass It On" must appear at the bottom of the plate.~~

~~(b) The annual use fees shall be distributed to Transplant Foundation, Inc., and shall use up to 10 percent of the proceeds from the annual use fee for marketing and administrative costs that are directly associated with the management and distribution of the proceeds. The remaining proceeds shall be used to provide statewide grants for patient services, including preoperative, rehabilitative, and housing assistance; organ donor education and awareness programs; and statewide medical research.~~

~~(64)(66) IN GOD WE TRUST LICENSE PLATES.—~~

~~(b) The license plate annual use fees shall be distributed to the In God We Trust Foundation, Inc., which may use up to 10 percent of the proceeds to offset administrative costs, promotion, and marketing of the license plate directly associated with the operations of the foundation. The remaining proceeds may be used to address the needs of the military community and the public safety community; provide educational grants and scholarships to foster self-reliance and stability in Florida's youth; and provide education in to fund educational scholarships for the children of Florida residents who are~~



651502

~~members of the United States Armed Forces, the National Guard, and the United States Armed Forces Reserve and for the children of public safety employees who have died in the line of duty who are not covered by existing state law. Funds shall also be distributed to other s. 501(c)(3) organizations that may apply for grants and scholarships and to provide educational grants to public and private schools regarding to promote the historical and religious significance of religion in American and Florida history. The In God We Trust Foundation, Inc., shall create an advisory council comprised of persons with knowledge in these program areas to make funding recommendations distribute the license plate annual use fees in the following manner:~~

~~1. The In God We Trust Foundation, Inc., shall retain all revenues from the sale of such plates until all startup costs for developing and establishing the plate have been recovered.~~

~~2. Ten percent of the funds received by the In God We Trust Foundation, Inc., shall be expended for administrative costs, promotion, and marketing of the license plate directly associated with the operations of the In God We Trust Foundation, Inc.~~

~~3. All remaining funds shall be expended by the In God We Trust Foundation, Inc., for programs.~~

~~(69) ST. JOHNS RIVER LICENSE PLATES.—~~

~~(a) The department shall develop a St. Johns River license plate as provided in this section. The St. Johns River license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "St. Johns River" must appear at the bottom of the plate.~~



651502

~~(b) The requirements of s. 320.08053 must be met prior to the issuance of the plate. Thereafter, the license plate annual use fees shall be distributed to the St. Johns River Alliance, Inc., a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:~~

~~1. The St. Johns River Alliance, Inc., shall retain the first \$60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with education programs, conservation, research, and grant administration of the organization, and up to 10 percent may be used for promotion and marketing of the specialty license plate.~~

~~2. At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research or projects for which state funding is limited or not currently available. The remaining 50 percent shall be directed toward community outreach and access programs. The competitive grants shall be administered and approved by the board of directors of the St. Johns River Alliance, Inc. A grant advisory committee shall be composed of six members chosen by the St. Johns River Alliance board members.~~

~~3. Any remaining funds shall be distributed with the approval of and accountability to the board of directors of the St. Johns River Alliance, Inc., and shall be used to support activities contributing to education, outreach, and springs conservation.~~

~~4. Effective July 1, 2014, the St. Johns River license~~



651502

~~plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). The St. Johns River Alliance, Inc., shall have 24 months to record a minimum of 1,000 sales of the license plates. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the St. Johns River specialty plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the development and issuance of the plate. This subparagraph is repealed June 30, 2016.~~

~~(70) HISPANIC ACHIEVERS LICENSE PLATES.—~~

~~(a) Notwithstanding the requirements of s. 320.08053, the department shall develop a Hispanic Achievers license plate as provided in this section. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Hispanic Achievers" must appear at the bottom of the plate.~~

~~(b) The proceeds from the license plate annual use fee shall be distributed to National Hispanic Corporate Achievers, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to fund grants to nonprofit organizations to operate programs and provide scholarships and for marketing the Hispanic Achievers license plate. National Hispanic Corporate Achievers, Inc., shall establish a Hispanic Achievers Grant Council that shall provide recommendations for statewide grants from available Hispanic Achievers license plate proceeds to~~



651502

~~nonprofit organizations for programs and scholarships for
Hispanic and minority Floridians. National Hispanic Corporate
Achievers, Inc., shall also establish a Hispanic Achievers
License Plate Fund. Moneys in the fund shall be used by the
grant council as provided in this paragraph. All funds received
under this subsection must be used in this state.~~

~~(c) National Hispanic Corporate Achievers, Inc., may retain
all proceeds from the annual use fee until documented startup
costs for developing and establishing the plate have been
recovered. Thereafter, the proceeds from the annual use fee
shall be used as follows:~~

~~1. Up to 5 percent of the proceeds may be used for the cost
of administration of the Hispanic Achievers License Plate Fund,
the Hispanic Achievers Grant Council, and related matters.~~

~~2. Funds may be used as necessary for annual audit or
compliance affidavit costs.~~

~~3. Up to 20 percent of the proceeds may be used to market
and promote the Hispanic Achievers license plate.~~

~~4. Twenty-five percent of the proceeds shall be used by the
Hispanic Corporate Achievers, Inc., located in Seminole County,
for grants.~~

~~5. The remaining proceeds shall be available to the
Hispanic Achievers Grant Council to award grants for services,
programs, or scholarships for Hispanic and minority individuals
and organizations throughout Florida. All grant recipients must
provide to the Hispanic Achievers Grant Council an annual
program and financial report regarding the use of grant funds.
Such reports must be available to the public.~~

~~(d) Effective July 1, 2014, the Hispanic Achievers license~~



651502

~~plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc., shall have 24 months to record a minimum of 1,000 sales. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the Hispanic Achievers license plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the Hispanic Achievers license plate. This subsection is repealed June 30, 2016.~~

(76)(80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.-

(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to a maximum of 10 percent of the proceeds for marketing to promote and market the plate. All remaining proceeds shall be distributed to and used by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects ~~The remainder of the proceeds shall be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc.~~

(80) DUCKS UNLIMITED LICENSE PLATES.-

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. Ducks Unlimited license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.



651502

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. A minimum of 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

(81) PLAY BALL LICENSE PLATES.—

(a) The department shall develop a Play Ball license plate as provided in this section and s. 320.08053. Play Ball license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Play Ball" must appear at the bottom of the plate.

(b) The license plate annual use fees shall be distributed to American Dream Baseball, Inc., which may retain all proceeds from the annual use fees until the startup costs for developing and issuing the license plates have been recovered. Thereafter, American Dream Baseball, Inc., may use the proceeds as follows:

1. A maximum of 10 percent may be used for administrative costs of the organization associated with implementing the programs funded by proceeds derived from sales of the specialty license plate and for the promotion and marketing costs of the license plate.

2. The remainder shall be used to fund the activities,



651502

programs, and projects of American Dream Baseball, Inc.

(82) AMERICA THE BEAUTIFUL LICENSE PLATES.—

(a) The department shall develop an America The Beautiful license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and the words "America The Beautiful" must appear on the plate.

(b) The annual use fees from the plate shall be distributed to the America the Beautiful Fund as follows: 10 percent to offset its administrative, marketing and promotion costs, and the remaining 85 percent for projects and programs teaching character, leadership, and service to Florida youth; provision of well-being and assistance in the military community; outdoor education advancing self-sufficiency; wildlife conservation including imperiled and managed species; the maintenance of historic or culturally important sites, buildings, structures, or objects, and the development and modification of playgrounds, recreational areas, or other outdoor amenities, including disability access.

(83) PROTECT POLLINATORS PLATES.—

(a) The department shall develop a Protect Pollinators license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and the words "Protect Pollinators" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Florida Wildflower Foundation, Inc., which:

1. May use a maximum of 10 percent of the proceeds to market, promote, and administer the Protect Pollinators plate.

2. Shall use the remainder of the proceeds to establish



651502

pollinator wildflower habitats, fund pollinator education and research programs, and promote awareness of pollinators, including butterflies, native bees and honeybees, hummingbirds, bats, and hundreds of other insects and animal pollinator species, and their importance to Florida agricultural success and the security of the food supply.

(84) FLORIDA NATIVE LICENSE PLATES.—

(a) The department shall develop a Florida Native license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and the word "Native" must appear at the bottom of the plate. The plate must contain a camouflage background that includes leaves, flowers, or fronds of a minimum of 12 different Florida native plants.

(b)1. The department shall retain all annual use fees from the sale of the plate until all startup costs for developing and issuing the plate have been recovered.

2. Thereafter, the annual use fees from the sale of the plate shall be distributed to Florida Native Plant Society, a Florida nonprofit corporation, which may use a maximum of 10 percent of such fees for administrative costs and to market and promote the plate. The balance of the fees shall be used by Florida Native Plant Society, to fulfill the mission of the Florida Native Plant Society, where 45 percent is dedicated to maintaining, improving, and restoring public native species, hunting and fishing habitats, and 45 percent is used to promote the cultivation of Florida's agricultural products through the preservation of native noncrop plants to provide habitats for pollinators and natural enemies to plant pests, and to provide pollen and nectar and undisturbed habitats for bee nesting



651502

throughout the growing season.

(85) DONATE LIFE FLORIDA LICENSE PLATES.—

(a) The department shall develop a Donate Life Florida license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Donors Saves Lives" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs. The remaining proceeds of the annual use fees shall be used by the Donate Life Florida to educate Florida residents on the importance of organ, tissue and eye donation and for the continued maintenance of the Joshua Abbott Organ and Tissue Donor Registry.

(86) SUN SEA SMILES LICENSE PLATES.—

(a) The department shall develop a Sun Sea Smiles license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Sun Sea Smiles" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed as follows:

1. Five percent shall be distributed to the Florida Caribbean Charitable Foundation, Inc., to be used only for marketing of the Sun Sea Smiles license plate.

2. An additional 30 percent shall be distributed to the Florida Caribbean Charitable Foundation, Inc. Of this amount, up



651502

to 5 percent may be used for administrative expenses, and the remainder shall be used as follows:

a. Sixty percent shall be used for a college scholarship program.

b. Fifteen percent shall be used to promote health and wellness for residents in this state who are of Caribbean descent.

c. Twenty-five percent shall be used to promote awareness of Caribbean culture within this state.

3. Twenty percent shall be distributed to the American Friends of Jamaica, Inc., a charitable, not-for-profit organization under s. 501(c)(3) of the Internal Revenue Code registered with the Department of Agriculture and Consumer Services and incorporated in New York, to be used as grants to promote social and community development among residents of this state. Of this amount, up to 5 percent may be used for administrative and marketing expenses.

4. Ten percent shall be distributed to Haitian Neighborhood Center Sant La, Inc., to be used to promote social and community development. Of this amount, up to 5 percent may be used for administrative expenses.

5. Ten percent shall be distributed to Fanm Ayisyen nan Miyami, Inc., to be used to promote social and community development. Of this amount, up to 10 percent may be used for administrative expenses.

6. Twenty percent shall be distributed to Greater Caribbean American Cultural Coalition, Inc., to be used to promote awareness of Caribbean culture within this state. Of this amount, up to 5 percent may be used for administrative expenses.



651502

7. Five percent shall be distributed to Little Haiti Optimist Foundation, Inc., to be used to promote awareness of Caribbean culture and youth development within this state. Of this amount, up to 5 percent may be used for administrative expenses.

(87) OMEGA PSI PHI FRATERNITY LICENSE PLATES.—

(a) The department shall develop an Omega Psi Phi Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Omega Psi Phi" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the State of Florida Omega Friendship Foundation, Inc., to be used as follows:

1. Five percent shall be used solely for marketing of the Omega Psi Phi Fraternity license plate.

2. Ninety-five percent shall be used for college scholarships for residents of the state attending historically black colleges and universities in the state.

(88) DELTA SIGMA THETA SORORITY LICENSE PLATES.—

(a) The department shall develop a Delta Sigma Theta Sorority license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Delta Sigma Theta" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Delta Research and Educational Foundation,



651502

Inc., to be used as follows:

1. Five percent shall be used solely for marketing of the Delta Sigma Theta Sorority license plate.

2. Ninety-five percent shall be used for college scholarships for residents of the state attending historically black colleges and universities in the state.

(89) SIGMA GAMMA RHO SORORITY LICENSE PLATES.—

(a) The department shall develop a Sigma Gamma Rho Sorority license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Sigma Gamma Rho" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Mary McLeod Bethune Scholarship Program in accordance with s. 1009.73.

(90) KAPPA ALPHA PSI FRATERNITY LICENSE PLATES.—

(a) The department shall develop a Kappa Alpha Psi Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Kappa Alpha Psi" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Southern Province of Kappa Alpha Psi Foundation, Inc., to be used as follows:

1. Five percent shall be used solely for marketing of the Kappa Alpha Psi Fraternity license plate.



651502

2. Ninety-five percent shall be used for college scholarships for residents of the state attending historically black colleges and universities in the state.

(91) ALPHA KAPPA ALPHA SORORITY LICENSE PLATES.—

(a) The department shall develop an Alpha Kappa Alpha Sorority license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Alpha Kappa Alpha" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Alpha Kappa Alpha Educational Advancement Foundation, Inc., to be used as follows:

1. Five percent shall be used solely for marketing of the Alpha Kappa Alpha Sorority license plate.

2. Ninety-five percent shall be used for college scholarships for residents of the state attending historically black colleges and universities in the state.

(92) ALPHA PHI ALPHA FRATERNITY LICENSE PLATES.—

(a) The department shall develop an Alpha Phi Alpha Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Alpha Phi Alpha" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Jc Rawls-Ffac Foundation, Inc.

(93) ZETA PHI BETA SORORITY LICENSE PLATES.—



651502

(a) The department shall develop a Zeta Phi Beta Sorority license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Zeta Phi Beta" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Mary McLeod Bethune Scholarship Program in accordance with s. 1009.73.

(94) PHI BETA SIGMA FRATERNITY LICENSE PLATES.—

(a) The department shall develop a Phi Beta Sigma Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Phi Beta Sigma" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Mary McLeod Bethune Scholarship Program in accordance with s. 1009.73.

(95) IOTA PHI THETA FRATERNITY LICENSE PLATES.—

(a) The department shall develop an Iota Phi Theta Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Iota Phi Theta" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be



651502

distributed to the Department of Education to be used for the
Mary McLeod Bethune Scholarship Program in accordance with s.
1009.73.

(96) DAN MARINO FOUNDATION LICENSE PLATES.—

(a) The department shall develop a Dan Marino Foundation
license plate as provided in this section and s. 320.08053. Dan
Marino Foundation license plates must bear the colors and design
approved by the department. The word "Florida" must appear at
the top of the plate, and the words "Marino Campus" must appear
at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be
distributed to the Dan Marino Foundation, Inc., a Florida
nonprofit corporation, which may use up to 10 percent of such
fees for administrative costs and marketing of the plate. The
remainder of the fees shall be used by the Dan Marino
Foundation, Inc., to assist Floridians with developmental
disabilities to become employed, independent, and productive,
and to promote and fund educational scholarships and awareness
of these services.

(97) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.—

(a) The department shall develop a Florida State Beekeepers
Association license plate as provided in this section and s.
320.08053. The plate must bear the colors and design approved by
the department. The word "Florida" must appear at the top of the
plate, and the words "Save the Bees" must appear at the bottom
of the plate.

(b) The annual use fees shall be distributed to the Florida
State Beekeepers Association, a Florida nonprofit corporation.
The Florida State Beekeepers Association may use up to 18



651502

percent of the annual use fees for:

1. Direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process of the license plate. All vendors associated with the administrative costs shall be selected by competitive bid.

2. Promotion and marketing costs of the license plate.

(c) The remaining funds shall be distributed to the Florida State Beekeepers Association and shall be used to raise awareness of the importance of beekeeping to Florida agriculture by funding honeybee research, education, outreach, and husbandry. The Florida State Beekeepers Association board of managers must approve and is accountable for all such expenditures.

(98) ORLANDO UNITED LICENSE PLATES.—

(a) The department shall develop an Orlando United license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Orlando United" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed as follows:

1. Seven percent shall be distributed to the Mental Health Association of Central Florida, Inc., to be used for marketing of the license plate.

2. Thirty-one percent shall be distributed to the Mental Health Association of Central Florida, Inc. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in



651502

Orlando, Florida, on June 12, 2016.

3. Thirty-one percent shall be distributed to the Hispanic Federation, Inc., a charitable, not-for-profit organization under s. 501(c)(3) of the Internal Revenue Code registered with the Department of Agriculture and Consumer Services and incorporated in New York. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016, through the Proyecto Somos Orlando campaign operated by the Hispanic Federation, Inc.

4. Thirty-one percent shall be distributed to Two Spirit Health Services, Inc. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016.

(99) ETHICAL ECOTOURISM LICENSE PLATES.—

(a) The department shall develop an Ethical Ecotourism license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and words that are approved by the department must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed equally between the Florida Society for Ethical Ecotourism and Paddle Florida, Inc., each of which may use up to 10 percent of the proceeds for administrative costs and marketing of the plate. The balance of the annual use fees shall be used by the Florida Society for Ethical Ecotourism to provide



651502

environmental education and awareness that encourages behaviors that contribute to the sustainability of Florida's natural ecosystems and resources and Paddle Florida, Inc., to raise awareness about water conservation, wildlife preservation, restoration of springs, and protection of waterways in this state.

(100) ROTARY LICENSE PLATES.—

(a) The department shall develop a Rotary license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the word "Rotary" must appear on the bottom of the plate. The license plate must bear the Rotary International wheel emblem.

(b) The annual use fees shall be distributed to the Community Foundation of Tampa Bay, Inc., to distribute as follows:

1. Up to 10 percent for administrative costs and for marketing of the plate.

2. Ten percent to Rotary's Camp Florida for direct support to all programs and services provided to special needs children who attend the camp.

3. The remainder shall be distributed, proportionally based on sales, to each Rotary district in the state in support of Rotary youth programs in Florida.

(101) AUBURN UNIVERSITY LICENSE PLATES.—

(a) The department shall develop an Auburn University license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the



651502

plate, and the words "War Eagle" must appear at the bottom of the plate.

(b) The Tampa Bay Auburn Club is the lead club on behalf of the Auburn clubs in this state. The annual use fees from the sale of the plate shall be distributed to the Tampa Bay Auburn Club, together with statistics on sales of the license plates tabulated by county. The Tampa Bay Auburn Club must distribute to each of the state's Auburn clubs on a pro-rata basis the moneys received from sales in the regions within the respective club's area for the purpose of awarding scholarships to Florida residents attending Auburn University. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program pursuant to s. 1009.531 and shall use the scholarship funds for tuition and other expenses related to attending Auburn University.

(102) BEAT CHILDHOOD CANCER LICENSE PLATES.—

(a) The department shall develop a Beat Childhood Cancer license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Beat Childhood Cancer" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Beat Nb, Inc., which may use up to 10 percent of the proceeds for administrative costs directly associated with the operation of the corporation and for marketing and promoting the plate. The remaining proceeds shall be used by the corporation to fund pediatric cancer treatment and research.

(103) AMERICAN EAGLE LICENSE PLATES.—



651502

(a) The department shall develop an American Eagle license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "God Bless America" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the American Eagle Foundation for deposit in the foundation's national endowment fund. Up to 10 percent of the funds received may be used for administrative costs and marketing of the plate. The American Eagle Foundation shall use the remainder of the proceeds to fund public education programs, rescue and care programs, and other conservation efforts in Florida which benefit bald eagles.

(104) FLORIDA BAY FOREVER LICENSE PLATES.—

(a) The department shall develop a Florida Bay Forever license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Florida Bay Forever" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Florida National Park Association, Inc., which may use up to 10 percent of the proceeds for administrative costs and marketing of the plate. The remainder of the funds shall be used to supplement the Everglades National Park's budgets and to support educational, interpretive, historical, and scientific research relating to the Everglades National Park.



651502

(105) BONEFISH AND TARPON TRUST LICENSE PLATES.—

(a) The department shall develop a Bonefish and Tarpon Trust license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Bonefish and Tarpon Trust" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Bonefish and Tarpon Trust, which:

1. May use a maximum of 10 percent of the proceeds to promote and market the Bonefish and Tarpon Trust license plate.

2. Shall invest and reinvest the remainder of the proceeds and use the interest thereon to conserve and enhance Florida bonefish and tarpon fisheries and their respective environments through stewardship, research, education, and advocacy.

(106) UNIVERSITY OF GEORGIA LICENSE PLATES.—

(a) The department shall develop a University of Georgia license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "The University of Georgia" must appear at the bottom of the plate.

(b) The Georgia Bulldog Club of Jacksonville is the lead club on behalf of the University of Georgia Booster Clubs in this state. The annual use fees from the sale of the plate shall be distributed to the Georgia Bulldog Club of Jacksonville, together with statistics on sales of the license plates tabulated by county. The Georgia Bulldog Club of Jacksonville must distribute to each of the state's University of Georgia Booster Clubs on a pro-rata basis the moneys received from sales



651502

in the regions within the respective club's area for the purpose of awarding scholarships to Florida residents attending the University of Georgia. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program pursuant to s. 1009.531 and shall use the scholarship funds for tuition and other expenses related to attending the University of Georgia.

Section 5. Section 320.08062, Florida Statutes, is amended to read:

320.08062 Audits ~~and attestations~~ required; annual use fees of specialty license plates.—

(1)(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with ss. 320.08056 and 320.08058.

(b) Any organization not subject to audit pursuant to s. 215.97 shall annually attest, under penalties of perjury, that such proceeds were used in compliance with ss. 320.08056 and 320.08058. The attestation shall be made annually in a form and format determined by the department. In addition, the department shall audit any such organization every 2 years to ensure proceeds have been used in compliance with ss. 320.08056 and 320.08058.

(c) Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General. The annual attestation shall be submitted to the department for review within 9 months after the end of the organization's fiscal year.

(2)(a) Within 120 days after receiving an organization's



651502

audit or attestation, the department shall determine which recipients of revenues from specialty license plate annual use fees have not complied with subsection (1). In determining compliance, the department may commission an independent actuarial consultant, or an independent certified public accountant, who has expertise in nonprofit and charitable organizations.

(b) The department must discontinue the distribution of revenues to any organization failing to submit the required documentation as required in subsection (1), but may resume distribution of the revenues upon receipt of the required information.

(c) If the department or its designee determines that an organization has not complied or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, the department must discontinue the distribution of the revenues to the organization. The department shall notify the organization of its findings and direct the organization to make the changes necessary in order to comply with this chapter. If the officers of the organization sign an affidavit under penalties of perjury stating that they acknowledge the findings of the department and attest that they have taken corrective action and that the organization will submit to a followup review by the department, the department may resume the distribution of revenues.

(d) If an organization fails to comply with the department's recommendations and corrective actions as outlined in paragraph (c), the revenue distributions shall be discontinued until completion of the next regular session of the Legislature. The department shall notify the President of the



651502

Senate and the Speaker of the House of Representatives by the first day of the next regular session of any organization whose revenues have been withheld as a result of this paragraph. If the Legislature does not provide direction to the organization and the department regarding the status of the undistributed revenues, the department shall deauthorize the plate and the undistributed revenues shall be immediately deposited into the Highway Safety Operating Trust Fund.

(3) The department or its designee has the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.

Section 6. Subsection (5) is added to section 320.0842, Florida Statutes, to read:

320.0842 Free motor vehicle license plates to veterans who use wheelchairs.—

(5) An owner or lessee of a motor vehicle who resides in this state and qualifies for a license plate under this section and a Purple Heart license plate under s. 320.089, upon application to the department, shall be issued a license plate stamped with the words "Combat-wounded Veteran" followed by the serial number of the license plate and the international symbol of accessibility. The license plate entitles the person to all privileges afforded by a license plate issued under this section. When more than one registrant is listed on the registration issued under this section, the eligible applicant shall be noted on the registration certificate.

Section 7. Subsection (7) is added to section 320.086, Florida Statutes, to read:

320.086 Ancient or antique motor vehicles; horseless



651502

carriage, antique, or historical license plates; former military vehicles.—

(7) For purposes of this section, a trailer is considered a motor vehicle.

Section 8. Section 320.0875, Florida Statutes, is created to read:

320.0875 Purple Heart motorcycle special license plate.—

(1) Upon application to the department and payment of the license tax for the motorcycle as provided in s. 320.08, a resident of this state who owns or leases a motorcycle that is not used for hire or commercial use shall be issued a Purple Heart motorcycle special license plate if he or she provides documentation acceptable to the department that he or she is a recipient of the Purple Heart medal.

(2) The Purple Heart motorcycle special license plate shall be stamped with the words "Combat-wounded Veteran" followed by the serial number of the license plate. The Purple Heart motorcycle special license plate may have the words "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

Section 9. Section 320.089, Florida Statutes, is amended to read:

~~320.089 Veterans of the United States Armed Forces; members of National Guard; survivors of Pearl Harbor; Purple Heart medal recipients; active or retired United States Armed Forces reservists; Combat Infantry Badge, Combat Medical Badge, or Combat Action Badge recipients; Combat Action Ribbon recipients; Air Force Combat Action Medal recipients; Distinguished Flying Cross recipients; former prisoners of war; Korean War Veterans;~~



651502

~~Vietnam War Veterans; Operation Desert Shield Veterans;~~
~~Operation Desert Storm Veterans; Operation Enduring Freedom~~
~~Veterans; Operation Iraqi Freedom Veterans; Women Veterans;~~
~~World War II Veterans; and Navy Submariners;~~ Special license
plates for military servicemembers, veterans, and Pearl Harbor
Survivors; fee.-

(1) (a) Upon application to the department and payment of
the license tax for the vehicle as provided in s. 320.08, a
resident of the state who owns or leases ~~Each owner or lessee of~~
an automobile or truck for private use or recreational vehicle
as specified in s. 320.08(9)(c) or (d), which is not used for
hire or commercial use, shall be issued a license plate pursuant
to the following if the applicant provides the department with
proof that he or she meets the qualifications listed in this
section for the applicable license plate:

1. A person released or discharged from any branch ~~who is a~~
~~resident of the state and a veteran~~ of the United States Armed
Forces shall be issued a license plate stamped with the words
"Veteran" or "Woman Veteran" followed by the serial number of
the license plate. ~~a Woman Veteran,~~

2. A World War II Veteran shall be issued a license plate
stamped with the words "WWII Veteran" followed by the serial
number of the license plate.

3. A Navy Submariner shall be issued a license plate
stamped with the words "Navy Submariner" followed by the serial
number of the license plate.

4. An active or retired member of the Florida National
Guard shall be issued a license plate stamped with the words
"National Guard" followed by the serial number of the license



651502

968 plate.

969 5. A member of the Pearl Harbor Survivors Association or
970 other person on active military duty in Pearl Harbor on December
971 7, 1941, shall be issued a license plate stamped with the words
972 "Pearl Harbor Survivor" followed by the serial number of the
973 license plate. ~~, a survivor of the attack on Pearl Harbor,~~

974 6. A recipient of the Purple Heart medal shall be issued a
975 license plate stamped with the words "Combat-wounded Veteran"
976 followed by the serial number of the license plate. The Purple
977 Heart plate may have the words "Purple Heart" stamped on the
978 plate and the likeness of the Purple Heart medal appearing on
979 the plate.

980 7. An active or retired member of any branch of the United
981 States Armed Forces Reserve shall be issued a license plate
982 stamped with the words "U.S. Reserve" followed by the serial
983 number of the license plate.

984 8. A member of the Combat Infantrymen's Association, Inc.,
985 or a recipient of the Combat Infantry Badge, Combat Medical
986 Badge, Combat Action Badge, Combat Action Ribbon, or Air Force
987 Combat Action Medal shall be issued a license plate stamped with
988 the words "Combat Infantry Badge," "Combat Medical Badge,"
989 "Combat Action Badge," "Combat Action Ribbon," or "Air Force
990 Combat Action Medal," as appropriate, and a likeness of the
991 related campaign badge, ribbon, or medal followed by the serial
992 number of the license plate.

993 9. A recipient of the ~~or~~ Distinguished Flying Cross shall
994 be issued a license plate stamped with the words "Distinguished
995 Flying Cross" and a likeness of the Distinguished Flying Cross
996 followed by the serial number of the license plate.



651502

10. A recipient of the Bronze Star shall be issued a license plate stamped with the words "Bronze Star" and a likeness of the Bronze Star Medal followed by the serial number of the license plate. A recipient of the Bronze Star with the "V" device shall be issued a license plate stamped with the words "Bronze Star" and a likeness of the Bronze Star Medal with the "V" device emblem followed by the serial number of the license plate, ~~upon application to the department, accompanied by proof of release or discharge from any branch of the United States Armed Forces, proof of active membership or retired status in the Florida National Guard, proof of membership in the Pearl Harbor Survivors Association or proof of active military duty in Pearl Harbor on December 7, 1941, proof of being a Purple Heart medal recipient, proof of active or retired membership in any branch of the United States Armed Forces Reserve, or proof of membership in the Combat Infantrymen's Association, Inc., proof of being a recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, or Distinguished Flying Cross, and upon payment of the license tax for the vehicle as provided in s. 320.08, shall be issued a license plate as provided by s. 320.06 which, in lieu of the serial numbers prescribed by s. 320.06, is stamped with the words "Veteran," "Woman Veteran," "WWII Veteran," "Navy Submariner," "National Guard," "Pearl Harbor Survivor," "Combat wounded veteran," "U.S. Reserve," "Combat Infantry Badge," "Combat Medical Badge," "Combat Action Badge," "Combat Action Ribbon," "Air Force Combat Action Medal," or "Distinguished Flying Cross," as appropriate, and a likeness of the related~~



651502

~~campaign medal or badge, followed by the serial number of the license plate. Additionally, the Purple Heart plate may have the words "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.~~

(b) Notwithstanding any ~~other provision of law to the contrary, beginning with fiscal year 2002-2003 and annually thereafter,~~ the first \$100,000 in general revenue generated from the sale of license plates issued under this section shall be deposited into the Grants and Donations Trust Fund, as described in s. 296.38(2), to be used for the purposes established by law for that trust fund. Any additional general revenue generated from the sale of such plates shall be deposited into the State Homes for Veterans Trust Fund and used solely to construct, operate, and maintain domiciliary and nursing homes for veterans, subject to the requirements of chapter 216.

(c) Any revenue generated from the sale of Woman Veteran license plates must be deposited into the Operations and Maintenance Trust Fund administered by the Department of Veterans' Affairs pursuant to s. 20.375(3) and must be used solely for the purpose of creating and implementing programs to benefit women veterans.

(d) Notwithstanding any ~~provisions of law to the contrary,~~ an applicant for a Pearl Harbor Survivor license plate or a Purple Heart license plate who also qualifies for a disabled veteran's license plate under s. 320.084 shall be issued the appropriate special license plate without payment of the license tax imposed by s. 320.08.

(2) Each owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a



651502

recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use who is a resident of this state and who is a former prisoner of war, or his or her unremarried surviving spouse, upon application to the department, shall be issued a license plate as provided in s. 320.06 which may have the words "Ex-POW" stamped on the plate and the likeness of the Prisoner of War Medal ~~with the words "Ex-POW"~~ followed by the serial number. Each application shall be accompanied by proof that the applicant meets the qualifications specified in paragraph (a) or paragraph (b).

(a) A citizen of the United States who served as a member of the Armed Forces of the United States or the armed forces of a nation allied with the United States who was held as a prisoner of war at such time as the Armed Forces of the United States were engaged in combat, or his or her unremarried surviving spouse, may be issued the special license plate provided for in this subsection without payment of the license tax imposed by s. 320.08.

(b) A person who was serving as a civilian with the consent of the United States Government, or a person who was a member of the Armed Forces of the United States while he or she was not a United States citizen and was held as a prisoner of war when the Armed Forces of the United States were engaged in combat, or his or her unremarried surviving spouse, may be issued the special license plate provided for in this subsection upon payment of the license tax imposed by s. 320.08.

(3) Each owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d),



651502

which is not used for hire or commercial use who is a resident of this state and who is the unremarried surviving spouse of a recipient of the Purple Heart medal, upon application to the department accompanied by the payment of the required fees, shall be issued a license plate as provided in s. 320.06 which is stamped with the words "Purple Heart" and the likeness of the Purple Heart medal followed by the serial number. Each application shall be accompanied by proof that the applicant is the unremarried surviving spouse of a recipient of the Purple Heart medal.

(4) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which is not used for hire or commercial use who is a resident of this state and a current or former member of the United States Armed Forces who was deployed and served in Korea during the Korean War as defined in s. 1.01(14), upon application to the department accompanied by proof of active membership or former active duty status during the Korean War and payment of the license tax for the vehicle as provided in s. 320.08, shall be issued a license plate as provided by s. 320.06 which, in lieu of the registration license number prescribed by s. 320.06, is stamped with the words "Korean War Veteran" and a likeness of the Korean Service Medal, followed by the registration license number of the plate. Proof that the applicant was awarded the Korean Service Medal is sufficient to establish eligibility for the license plate.

(5) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a



651502

recreational vehicle as specified in s. 320.08(9)(c) or (d) which is not used for hire or commercial use who is a resident of this state and a current or former member of the United States military who was deployed and served in Vietnam during United States military deployment in Indochina, upon application to the department accompanied by proof of active membership or former active duty status during these operations and payment of the license tax for the vehicle as provided in s. 320.08, shall be issued a license plate as provided by s. 320.06 which, in lieu of the registration license number prescribed by s. 320.06, is stamped with the words "Vietnam War Veteran" and a likeness of the Vietnam Service Medal, followed by the registration license number of the plate. Proof that the applicant was awarded the Vietnam Service Medal is sufficient to establish eligibility for the license plate.

(6) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which is not used for hire or commercial use who is a resident of this state and a current or former member of the United States military who was deployed and served in Saudi Arabia, Kuwait, or another area of the Persian Gulf during Operation Desert Shield or Operation Desert Storm; in Afghanistan during Operation Enduring Freedom; or in Iraq during Operation Iraqi Freedom, upon application to the department accompanied by proof of active membership or former active duty status during one of these operations and payment of the license tax for the vehicle as provided in s. 320.08, shall be issued a license plate as provided by s. 320.06 which, in lieu of the registration license



651502

number prescribed by s. 320.06, is stamped with the words "Operation Desert Shield," "Operation Desert Storm," "Operation Enduring Freedom," or "Operation Iraqi Freedom," as appropriate, and a likeness of the related campaign medal followed by the registration license number of the plate. Proof that the applicant was awarded the Southwest Asia Service Medal, Iraq Campaign Medal, Afghanistan Campaign Medal, or Global War on Terrorism Expeditionary Medal is sufficient to establish eligibility for the appropriate license plate.

Section 10. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2017.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to license plates; amending s.
320.08053, F.S.; revising presale requirements for
issuance of a specialty plate; amending s. 320.08056,
F.S.; deleting the American Red Cross, Donate Organs-
Pass It On, St. Johns River, and Hispanic Achievers
license plates; establishing an annual use fee for
certain specialty license plates; revising provisions
for discontinuing issuance of a specialty plate;
conforming cross-references; revising applicability;
amending s. 320.08058, F.S.; revising the design of
the Special Olympics Florida license plates; deleting
the American Red Cross and Donate Organs-Pass It On



651502

1171 license plates; revising the distribution of annual
1172 use fees for the In God We Trust license plate;
1173 deleting the St. Johns River and Hispanic Achievers
1174 license plates; revising the distribution of proceeds
1175 for the Fallen Law Enforcement Officers license plate;
1176 requiring the Department of Highway Safety and Motor
1177 Vehicles to develop certain specialty license plates;
1178 providing for distribution and use of fees collected
1179 from the sale of the licenses plates; amending s.
1180 320.08062, F.S.; directing the department to audit
1181 certain organizations that receive funds from the sale
1182 of specialty license plates; amending s. 320.0842,
1183 F.S.; providing for issuance of a license plate to
1184 residents who qualify for a free license plate as
1185 veterans using a wheelchair and who qualify for a
1186 certain Purple Heart license plate; requiring certain
1187 wording and symbols on the plate; providing that the
1188 plate entitles the resident to specified privileges;
1189 requiring the eligible applicant to be identified on
1190 the registration certificate if more than one
1191 registrant is listed; amending s. 320.086, F.S.;
1192 providing that a trailer is considered a motor vehicle
1193 for specified purposes; creating s. 320.0875, F.S.;
1194 providing for a motorcycle special license plate to be
1195 issued to a recipient of the Purple Heart medal;
1196 providing requirements for the plate; amending s.
1197 320.089, F.S.; creating a special license plate for
1198 recipients of the Bronze Star medal; providing
1199 parameters for the design of the plate; requiring the



651502

1200 likeness of the Prisoner of War Medal to appear on the
1201 Ex-POW license plate; making technical changes;
1202 providing effective dates.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (651502)

Delete lines 203 - 235

and insert:

(64)~~(66)~~ IN GOD WE TRUST LICENSE PLATES.—

(b) The license plate annual use fees shall be distributed to the In God We Trust Foundation, Inc., to fund the Florida Veterans Foundation for the benefit of the Florida Veterans Emergency Financial Assistance Program. Additionally, the In God We Trust Foundation, Inc., shall use the fees to fund



557340

educational scholarships for the children of Florida residents who are members of the United States Armed Forces, the National Guard, and the United States Armed Forces Reserve and for the children of public safety employees who have died in the line of duty who are not covered by existing state law. Funds shall also be distributed to other s. 501(c)(3) organizations that may apply for grants and scholarships and to provide educational grants to public and private schools to promote the historical and religious significance of American and Florida history. The In God We Trust Foundation, Inc., shall distribute the license plate annual use fees in the following manner:

1. The In God We Trust Foundation, Inc., shall retain all revenues from the sale of such plates until all startup costs for developing and establishing the plate have been recovered.

2. Ten percent of the funds received by the In God We Trust Foundation, Inc., shall be expended for administrative costs, promotion, and marketing of the license plate directly associated with the operations of the In God We Trust Foundation, Inc.

3. Fifty percent of the funds shall be awarded to the Florida Veterans Foundation for the benefit of the Florida Veterans Emergency Financial Assistance Program.

4.3. The All remaining funds shall be expended by the In God We Trust Foundation, Inc., for other programs pursuant to this paragraph.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gainer) recommended the following:

Senate Amendment to Amendment (651502)

Delete lines 48 - 829
and insert:

Section 2. Present paragraphs (ff) through (ddd), present paragraphs (fff) through (ppp), present paragraphs (sss) through (eeee) of subsection (4) of section 320.08056, Florida Statutes, are redesignated as paragraphs (ee) through (ccc), paragraphs (ddd) through (nnn), and paragraphs (ooo) through (aaaa), respectively, and present paragraphs (ee), (eee), (qqq), and



108580

(rrr) of that subsection are amended, and new paragraphs (bbbb) through (eeee) and paragraphs (ffff) through (cccc) are added to that subsection, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(ee) American Red Cross license plate, \$25.~~

~~(eee) Donate Organs—Pass It On license plate, \$25.~~

~~(qqq) St. Johns River license plate, \$25.~~

~~(rrr) Hispanic Achievers license plate, \$25.~~

(bbbb) Ducks Unlimited license plate, \$25.

(cccc) Play Ball license plate, \$25.

(dddd) America the Beautiful license plate, \$25.

(eeee) Protect Pollinators plate, \$25.

(ffff) Florida Native license plate, \$25.

(gggg) Donate Life Florida license plate, \$25.

(hhhh) Sun Sea Smiles license plate, \$25.

(iiii) Omega Psi Phi Fraternity license plate, \$25.

(jjjj) Delta Sigma Theta Sorority license plate, \$25.

(kkkk) Sigma Gamma Rho Sorority license plate, \$25.

(llll) Kappa Alpha Psi Fraternity license plate, \$25.

(mmmm) Alpha Kappa Alpha Sorority license plate, \$25.

(nnnn) Alpha Phi Alpha Fraternity license plate, \$25.

(oooo) Zeta Phi Beta Sorority license plate, \$25.

(pppp) Phi Beta Sigma Fraternity license plate, \$25.

(qqqq) Iota Phi Theta Fraternity license plate, \$25.

(rrrr) Dan Marino Foundation license plate, \$25.

(ssss) Florida State Beekeepers Association license plate, \$25.



108580

(tttt) Orlando United license plate, \$25.

(uuuu) Ethical Ecotourism license plate, \$25.

(vvvv) Rotary license plate, \$25.

(www) Auburn University license plate, \$50.

(xxxx) Beat Childhood Cancer license plate, \$25.

(yyyy) American Eagle license plate, \$25.

(zzzz) Florida Bay Forever license plate, \$25.

(aaaaa) Bonefish and Tarpon Trust license plate, \$25.

(bbbbb) University of Georgia license plate, \$50.

(ccccc) University of Alabama license plate, \$50.

(8)

(c) A person issued a specialty license plate that has been discontinued by the department may keep the discontinued specialty license plate for the remainder of the 10-year license plate replacement period and must pay all other applicable registration fees. However, such person is exempt from paying the applicable specialty license plate fee under subsection (4) for the remainder of the 10-year license plate replacement period.

(d) If the department discontinues issuance of a specialty license plate, all annual use fees held or collected by the department shall be distributed within 180 days after the date the specialty license plate is discontinued. Of those fees, the department shall retain an amount sufficient to defray the applicable administrative and inventory closeout costs associated with discontinuance of the plate. The remaining funds shall be distributed to the specified organization or organizations as provided in s. 320.08058.

(e) If an organization that is the intended recipient of



108580

the funds pursuant to s. 320.08058 no longer exists, the department shall deposit any undisbursed funds into the Highway Safety Operating Trust Fund.

(f) Notwithstanding paragraph (a), on January 1 of each year, the department shall discontinue the specialty license plate with the fewest number of plates in circulation over the previous 24 months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty license plate registrations is the fewest in circulation over the previous 24 months.

(10)(a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4)(d), (bb), (kk), (iii), and (uuu) ~~(ll), (kkk), and (yyy)~~ and s. 320.0891 or out-of-state college or university license plates pursuant to paragraphs (4)(www), (bbbb), and (cccc).

Section 3. Effective October 1, 2020, paragraph (a) of subsection (8) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(8)(a) The department must discontinue the issuance of an approved specialty license plate if the number of valid



108580

specialty plate registrations falls below 3,000 ~~1,000~~ plates for at least 12 consecutive months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 3,000 ~~1,000~~ plates. This paragraph does not apply to collegiate license plates established under s. 320.08058(3), license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, or Florida Professional Sports Team License plates established under s. 320.08058(9).

Section 4. Present subsections (32) through (56), present subsections (58) through (68), and present subsections (71) through (83) of section 320.08058, Florida Statutes, are redesignated as subsections (31) through (55), subsections (56) through (66), and (67) through (79), respectively, paragraph (a) of subsection (7), present subsections (31) and (57), paragraph (b) of present subsection (66), present subsections (69) and (70), and paragraph (b) of present subsection (80) of that section are amended, and new subsections (80) through (83) and subsections (84) through (107) are added to that section, to read:

320.08058 Specialty license plates.—

(7) SPECIAL OLYMPICS FLORIDA LICENSE PLATES.—

(a) Special Olympics Florida license plates must contain the official Special Olympics Florida logo and must bear a design and colors that are approved by the department. The word "Florida" must be centered at the top ~~bottom~~ of the plate, and the words "Be a Fan" ~~"Everyone Wins"~~ must be centered at the bottom ~~top~~ of the plate.



108580

~~(31) AMERICAN RED CROSS LICENSE PLATES.—~~

~~(a) Notwithstanding the provisions of s. 320.08053, the department shall develop an American Red Cross license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "American Red Cross" must appear at the bottom of the plate.~~

~~(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, 50 percent of the annual use fees shall be distributed to the American Red Cross Chapter of Central Florida, with statistics on sales of license plates, which are tabulated by county. The American Red Cross Chapter of Central Florida must distribute to each of the chapters in this state the moneys received from sales in the counties covered by the respective chapters, which moneys must be used for education and disaster relief in Florida. Fifty percent of the annual use fees shall be distributed proportionately to the three statewide approved poison control centers for purposes of combating bioterrorism and other poison-related purposes.~~

~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.—~~

~~(a) The department shall develop a Donate Organs-Pass It On license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Donate Organs-Pass It On" must appear at the bottom of the plate.~~

~~(b) The annual use fees shall be distributed to Transplant Foundation, Inc., and shall use up to 10 percent of the proceeds from the annual use fee for marketing and administrative costs that are directly associated with the management and~~



108580

~~distribution of the proceeds. The remaining proceeds shall be used to provide statewide grants for patient services, including preoperative, rehabilitative, and housing assistance; organ donor education and awareness programs; and statewide medical research.~~

~~(64)(66)~~ IN GOD WE TRUST LICENSE PLATES.—

(b) The license plate annual use fees shall be distributed to the In God We Trust Foundation, Inc., which may use up to 10 percent of the proceeds to offset administrative costs, promotion, and marketing of the license plate directly associated with the operations of the foundation. The remaining proceeds may be used to address the needs of the military community and the public safety community; provide educational grants and scholarships to foster self-reliance and stability in Florida's youth; and provide education in ~~to fund educational scholarships for the children of Florida residents who are members of the United States Armed Forces, the National Guard, and the United States Armed Forces Reserve and for the children of public safety employees who have died in the line of duty who are not covered by existing state law. Funds shall also be distributed to other s. 501(c)(3) organizations that may apply for grants and scholarships and to provide educational grants to public and private schools regarding to promote the historical and religious significance of religion in American and Florida history. The In God We Trust Foundation, Inc., shall create an advisory council comprised of persons with knowledge in these program areas to make funding recommendations distribute the license plate annual use fees in the following manner:~~

~~1. The In God We Trust Foundation, Inc., shall retain all~~



108580

~~revenues from the sale of such plates until all startup costs for developing and establishing the plate have been recovered.~~

~~2. Ten percent of the funds received by the In God We Trust Foundation, Inc., shall be expended for administrative costs, promotion, and marketing of the license plate directly associated with the operations of the In God We Trust Foundation, Inc.~~

~~3. All remaining funds shall be expended by the In God We Trust Foundation, Inc., for programs.~~

~~(69) ST. JOHNS RIVER LICENSE PLATES.—~~

~~(a) The department shall develop a St. Johns River license plate as provided in this section. The St. Johns River license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "St. Johns River" must appear at the bottom of the plate.~~

~~(b) The requirements of s. 320.08053 must be met prior to the issuance of the plate. Thereafter, the license plate annual use fees shall be distributed to the St. Johns River Alliance, Inc., a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:~~

~~1. The St. Johns River Alliance, Inc., shall retain the first \$60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with education programs, conservation, research, and grant administration of the organization, and up to 10 percent may be used for promotion and marketing of the~~



108580

~~specialty license plate.~~

~~2. At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research or projects for which state funding is limited or not currently available. The remaining 50 percent shall be directed toward community outreach and access programs. The competitive grants shall be administered and approved by the board of directors of the St. Johns River Alliance, Inc. A grant advisory committee shall be composed of six members chosen by the St. Johns River Alliance board members.~~

~~3. Any remaining funds shall be distributed with the approval of and accountability to the board of directors of the St. Johns River Alliance, Inc., and shall be used to support activities contributing to education, outreach, and springs conservation.~~

~~4. Effective July 1, 2014, the St. Johns River license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). The St. Johns River Alliance, Inc., shall have 24 months to record a minimum of 1,000 sales of the license plates. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the St. Johns River specialty plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the development and issuance of the plate. This subparagraph is repealed June 30, 2016.~~



108580

~~(70) HISPANIC ACHIEVERS LICENSE PLATES.—~~

~~(a) Notwithstanding the requirements of s. 320.08053, the department shall develop a Hispanic Achievers license plate as provided in this section. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Hispanic Achievers" must appear at the bottom of the plate.~~

~~(b) The proceeds from the license plate annual use fee shall be distributed to National Hispanic Corporate Achievers, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to fund grants to nonprofit organizations to operate programs and provide scholarships and for marketing the Hispanic Achievers license plate. National Hispanic Corporate Achievers, Inc., shall establish a Hispanic Achievers Grant Council that shall provide recommendations for statewide grants from available Hispanic Achievers license plate proceeds to nonprofit organizations for programs and scholarships for Hispanic and minority Floridians. National Hispanic Corporate Achievers, Inc., shall also establish a Hispanic Achievers License Plate Fund. Moneys in the fund shall be used by the grant council as provided in this paragraph. All funds received under this subsection must be used in this state.~~

~~(c) National Hispanic Corporate Achievers, Inc., may retain all proceeds from the annual use fee until documented startup costs for developing and establishing the plate have been recovered. Thereafter, the proceeds from the annual use fee shall be used as follows:~~

~~1. Up to 5 percent of the proceeds may be used for the cost of administration of the Hispanic Achievers License Plate Fund,~~



108580

~~the Hispanic Achievers Grant Council, and related matters.~~

~~2. Funds may be used as necessary for annual audit or compliance affidavit costs.~~

~~3. Up to 20 percent of the proceeds may be used to market and promote the Hispanic Achievers license plate.~~

~~4. Twenty-five percent of the proceeds shall be used by the Hispanic Corporate Achievers, Inc., located in Seminole County, for grants.~~

~~5. The remaining proceeds shall be available to the Hispanic Achievers Grant Council to award grants for services, programs, or scholarships for Hispanic and minority individuals and organizations throughout Florida. All grant recipients must provide to the Hispanic Achievers Grant Council an annual program and financial report regarding the use of grant funds. Such reports must be available to the public.~~

~~(d) Effective July 1, 2014, the Hispanic Achievers license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc., shall have 24 months to record a minimum of 1,000 sales. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the Hispanic Achievers license plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the Hispanic Achievers license plate. This subsection is repealed June 30, 2016.~~

~~(76)(80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.-~~



108580

(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to a maximum of 10 percent of the proceeds for marketing to promote and market the plate. All remaining proceeds shall be distributed to and used by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects ~~The remainder of the proceeds shall be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc.~~

(80) DUCKS UNLIMITED LICENSE PLATES.—

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. Ducks Unlimited license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. A minimum of 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

(81) PLAY BALL LICENSE PLATES.—

(a) The department shall develop a Play Ball license plate



108580

as provided in this section and s. 320.08053. Play Ball license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Play Ball" must appear at the bottom of the plate.

(b) The license plate annual use fees shall be distributed to American Dream Baseball, Inc., which may retain all proceeds from the annual use fees until the startup costs for developing and issuing the license plates have been recovered. Thereafter, American Dream Baseball, Inc., may use the proceeds as follows:

1. A maximum of 10 percent may be used for administrative costs of the organization associated with implementing the programs funded by proceeds derived from sales of the specialty license plate and for the promotion and marketing costs of the license plate.

2. The remainder shall be used to fund the activities, programs, and projects of American Dream Baseball, Inc.

(82) AMERICA THE BEAUTIFUL LICENSE PLATES.—

(a) The department shall develop an America The Beautiful license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and the words "America The Beautiful" must appear on the plate.

(b) The annual use fees from the plate shall be distributed to the America the Beautiful Fund as follows: 10 percent to offset its administrative, marketing and promotion costs, and the remaining 85 percent for projects and programs teaching character, leadership, and service to Florida youth; provision of well-being and assistance in the military community; outdoor education advancing self-sufficiency; wildlife conservation



108580

including imperiled and managed species; the maintenance of historic or culturally important sites, buildings, structures, or objects, and the development and modification of playgrounds, recreational areas, or other outdoor amenities, including disability access.

(83) PROTECT POLLINATORS PLATES.—

(a) The department shall develop a Protect Pollinators license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and the words "Protect Pollinators" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Florida Wildflower Foundation, Inc., which:

1. May use a maximum of 10 percent of the proceeds to market, promote, and administer the Protect Pollinators plate.

2. Shall use the remainder of the proceeds to establish pollinator wildflower habitats, fund pollinator education and research programs, and promote awareness of pollinators, including butterflies, native bees and honeybees, hummingbirds, bats, and hundreds of other insects and animal pollinator species, and their importance to Florida agricultural success and the security of the food supply.

(84) FLORIDA NATIVE LICENSE PLATES.—

(a) The department shall develop a Florida Native license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and the word "Native" must appear at the bottom of the plate. The plate must contain a camouflage background that includes leaves, flowers, or fronds of a minimum of 12 different Florida native plants.



108580

(b)1. The department shall retain all annual use fees from the sale of the plate until all startup costs for developing and issuing the plate have been recovered.

2. Thereafter, the annual use fees from the sale of the plate shall be distributed to Florida Native Plant Society, a Florida nonprofit corporation, which may use a maximum of 10 percent of such fees for administrative costs and to market and promote the plate. The balance of the fees shall be used by Florida Native Plant Society, to fulfill the mission of the Florida Native Plant Society, where 45 percent is dedicated to maintaining, improving, and restoring public native species, hunting and fishing habitats, and 45 percent is used to promote the cultivation of Florida's agricultural products through the preservation of native noncrop plants to provide habitats for pollinators and natural enemies to plant pests, and to provide pollen and nectar and undisturbed habitats for bee nesting throughout the growing season.

(85) DONATE LIFE FLORIDA LICENSE PLATES.—

(a) The department shall develop a Donate Life Florida license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Donors Saves Lives" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs. The remaining proceeds of the annual use fees shall be used by the Donate Life Florida to educate Florida residents on the



108580

importance of organ, tissue and eye donation and for the
continued maintenance of the Joshua Abbott Organ and Tissue
Donor Registry.

(86) SUN SEA SMILES LICENSE PLATES.—

(a) The department shall develop a Sun Sea Smiles license
plate as provided in this section and s. 320.08053. The plate
must bear the colors and design approved by the department. The
word "Florida" must appear at the top of the plate, and the
words "Sun Sea Smiles" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be
distributed as follows:

1. Five percent shall be distributed to the Florida
Caribbean Charitable Foundation, Inc., to be used only for
marketing of the Sun Sea Smiles license plate.

2. An additional 30 percent shall be distributed to the
Florida Caribbean Charitable Foundation, Inc. Of this amount, up
to 5 percent may be used for administrative expenses, and the
remainder shall be used as follows:

a. Sixty percent shall be used for a college scholarship
program.

b. Fifteen percent shall be used to promote health and
wellness for residents in this state who are of Caribbean
descent.

c. Twenty-five percent shall be used to promote awareness
of Caribbean culture within this state.

3. Twenty percent shall be distributed to the American
Friends of Jamaica, Inc., a charitable, not-for-profit
organization under s. 501(c)(3) of the Internal Revenue Code
registered with the Department of Agriculture and Consumer



108580

Services and incorporated in New York, to be used as grants to promote social and community development among residents of this state. Of this amount, up to 5 percent may be used for administrative and marketing expenses.

4. Ten percent shall be distributed to Haitian Neighborhood Center Sant La, Inc., to be used to promote social and community development. Of this amount, up to 5 percent may be used for administrative expenses.

5. Ten percent shall be distributed to Fanm Ayisyen nan Miyami, Inc., to be used to promote social and community development. Of this amount, up to 10 percent may be used for administrative expenses.

6. Twenty percent shall be distributed to Greater Caribbean American Cultural Coalition, Inc., to be used to promote awareness of Caribbean culture within this state. Of this amount, up to 5 percent may be used for administrative expenses.

7. Five percent shall be distributed to Little Haiti Optimist Foundation, Inc., to be used to promote awareness of Caribbean culture and youth development within this state. Of this amount, up to 5 percent may be used for administrative expenses.

(87) OMEGA PSI PHI FRATERNITY LICENSE PLATES.—

(a) The department shall develop an Omega Psi Phi Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Omega Psi Phi" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be



108580

distributed to the State of Florida Omega Friendship Foundation, Inc., to be used as follows:

1. Five percent shall be used solely for marketing of the Omega Psi Phi Fraternity license plate.

2. Ninety-five percent shall be used for college scholarships for residents of the state attending historically black colleges and universities in the state.

(88) DELTA SIGMA THETA SORORITY LICENSE PLATES.—

(a) The department shall develop a Delta Sigma Theta Sorority license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Delta Sigma Theta" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Delta Research and Educational Foundation, Inc., to be used as follows:

1. Five percent shall be used solely for marketing of the Delta Sigma Theta Sorority license plate.

2. Ninety-five percent shall be used for college scholarships for residents of the state attending historically black colleges and universities in the state.

(89) SIGMA GAMMA RHO SORORITY LICENSE PLATES.—

(a) The department shall develop a Sigma Gamma Rho Sorority license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Sigma Gamma Rho" must appear at the bottom of the plate.



108580

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Mary McLeod Bethune Scholarship Program in accordance with s. 1009.73.

(90) KAPPA ALPHA PSI FRATERNITY LICENSE PLATES.—

(a) The department shall develop a Kappa Alpha Psi Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Kappa Alpha Psi" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Southern Province of Kappa Alpha Psi Foundation, Inc., to be used as follows:

1. Five percent shall be used solely for marketing of the Kappa Alpha Psi Fraternity license plate.

2. Ninety-five percent shall be used for college scholarships for residents of the state attending historically black colleges and universities in the state.

(91) ALPHA KAPPA ALPHA SORORITY LICENSE PLATES.—

(a) The department shall develop an Alpha Kappa Alpha Sorority license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Alpha Kappa Alpha" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Alpha Kappa Alpha Educational Advancement Foundation, Inc., to be used as follows:



108580

1. Five percent shall be used solely for marketing of the Alpha Kappa Alpha Sorority license plate.

2. Ninety-five percent shall be used for college scholarships for residents of the state attending historically black colleges and universities in the state.

(92) ALPHA PHI ALPHA FRATERNITY LICENSE PLATES.—

(a) The department shall develop an Alpha Phi Alpha Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Alpha Phi Alpha" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Jc Rawls-Ffac Foundation, Inc.

(93) ZETA PHI BETA SORORITY LICENSE PLATES.—

(a) The department shall develop a Zeta Phi Beta Sorority license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Zeta Phi Beta" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Mary McLeod Bethune Scholarship Program in accordance with s. 1009.73.

(94) PHI BETA SIGMA FRATERNITY LICENSE PLATES.—

(a) The department shall develop a Phi Beta Sigma Fraternity license plate as provided in this section and s.



108580

320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Phi Beta Sigma" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Mary McLeod Bethune Scholarship Program in accordance with s. 1009.73.

(95) IOTA PHI THETA FRATERNITY LICENSE PLATES.—

(a) The department shall develop an Iota Phi Theta Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Iota Phi Theta" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Department of Education to be used for the Mary McLeod Bethune Scholarship Program in accordance with s. 1009.73.

(96) DAN MARINO FOUNDATION LICENSE PLATES.—

(a) The department shall develop a Dan Marino Foundation license plate as provided in this section and s. 320.08053. Dan Marino Foundation license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Marino Campus" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Dan Marino Foundation, Inc., a Florida nonprofit corporation, which may use up to 10 percent of such



108580

fees for administrative costs and marketing of the plate. The remainder of the fees shall be used by the Dan Marino Foundation, Inc., to assist Floridians with developmental disabilities to become employed, independent, and productive, and to promote and fund educational scholarships and awareness of these services.

(97) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.-

(a) The department shall develop a Florida State Beekeepers Association license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Save the Bees" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the Florida State Beekeepers Association, a Florida nonprofit corporation. The Florida State Beekeepers Association may use up to 18 percent of the annual use fees for:

1. Direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process of the license plate. All vendors associated with the administrative costs shall be selected by competitive bid.

2. Promotion and marketing costs of the license plate.

(c) The remaining funds shall be distributed to the Florida State Beekeepers Association and shall be used to raise awareness of the importance of beekeeping to Florida agriculture by funding honeybee research, education, outreach, and husbandry. The Florida State Beekeepers Association board of managers must approve and is accountable for all such expenditures.



108580

(98) ORLANDO UNITED LICENSE PLATES.—

(a) The department shall develop an Orlando United license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Orlando United" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed as follows:

1. Seven percent shall be distributed to the Mental Health Association of Central Florida, Inc., to be used for marketing of the license plate.

2. Thirty-one percent shall be distributed to the Mental Health Association of Central Florida, Inc. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016.

3. Thirty-one percent shall be distributed to the Hispanic Federation, Inc., a charitable, not-for-profit organization under s. 501(c)(3) of the Internal Revenue Code registered with the Department of Agriculture and Consumer Services and incorporated in New York. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016, through the Proyecto Somos Orlando campaign operated by the Hispanic Federation, Inc.

4. Thirty-one percent shall be distributed to Two Spirit Health Services, Inc. Of this amount, up to 5 percent may be



108580

used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016.

(99) ETHICAL ECOTOURISM LICENSE PLATES.—

(a) The department shall develop an Ethical Ecotourism license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and words that are approved by the department must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed equally between the Florida Society for Ethical Ecotourism and Paddle Florida, Inc., each of which may use up to 10 percent of the proceeds for administrative costs and marketing of the plate. The balance of the annual use fees shall be used by the Florida Society for Ethical Ecotourism to provide environmental education and awareness that encourages behaviors that contribute to the sustainability of Florida's natural ecosystems and resources and Paddle Florida, Inc., to raise awareness about water conservation, wildlife preservation, restoration of springs, and protection of waterways in this state.

(100) ROTARY LICENSE PLATES.—

(a) The department shall develop a Rotary license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the word "Rotary" must appear on the bottom of the plate. The license plate must bear the Rotary International wheel emblem.



108580

(b) The annual use fees shall be distributed to the
Community Foundation of Tampa Bay, Inc., to distribute as
follows:

1. Up to 10 percent for administrative costs and for
marketing of the plate.

2. Ten percent to Rotary's Camp Florida for direct support
to all programs and services provided to special needs children
who attend the camp.

3. The remainder shall be distributed, proportionally based
on sales, to each Rotary district in the state in support of
Rotary youth programs in Florida.

(101) AUBURN UNIVERSITY LICENSE PLATES.—

(a) The department shall develop an Auburn University
license plate as provided in this section and s. 320.08053. The
plate must bear the colors and design approved by the
department. The word "Florida" must appear at the top of the
plate, and the words "War Eagle" must appear at the bottom of
the plate.

(b) The Tampa Bay Auburn Club is the lead club on behalf of
the Auburn clubs in this state. The annual use fees from the
sale of the plate shall be distributed to the Tampa Bay Auburn
Club, together with statistics on sales of the license plates
tabulated by county. The Tampa Bay Auburn Club must distribute
to each of the state's Auburn clubs on a pro-rata basis the
moneys received from sales in the regions within the respective
club's area for the purpose of awarding scholarships to Florida
residents attending Auburn University. Students receiving these
scholarships must be eligible for the Florida Bright Futures
Scholarship Program pursuant to s. 1009.531 and shall use the



108580

scholarship funds for tuition and other expenses related to attending Auburn University.

(102) BEAT CHILDHOOD CANCER LICENSE PLATES.—

(a) The department shall develop a Beat Childhood Cancer license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Beat Childhood Cancer" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Beat Nb, Inc., which may use up to 10 percent of the proceeds for administrative costs directly associated with the operation of the corporation and for marketing and promoting the plate. The remaining proceeds shall be used by the corporation to fund pediatric cancer treatment and research.

(103) AMERICAN EAGLE LICENSE PLATES.—

(a) The department shall develop an American Eagle license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "God Bless America" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the American Eagle Foundation for deposit in the foundation's national endowment fund. Up to 10 percent of the funds received may be used for administrative costs and marketing of the plate. The American Eagle Foundation shall use the remainder of the proceeds to fund public education programs, rescue and care programs, and other conservation efforts in



108580

Florida which benefit bald eagles.

(104) FLORIDA BAY FOREVER LICENSE PLATES.—

(a) The department shall develop a Florida Bay Forever license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Florida Bay Forever" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Florida National Park Association, Inc., which may use up to 10 percent of the proceeds for administrative costs and marketing of the plate. The remainder of the funds shall be used to supplement the Everglades National Park's budgets and to support educational, interpretive, historical, and scientific research relating to the Everglades National Park.

(105) BONEFISH AND TARPON TRUST LICENSE PLATES.—

(a) The department shall develop a Bonefish and Tarpon Trust license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Bonefish and Tarpon Trust" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Bonefish and Tarpon Trust, which:

1. May use a maximum of 10 percent of the proceeds to promote and market the Bonefish and Tarpon Trust license plate.

2. Shall invest and reinvest the remainder of the proceeds and use the interest thereon to conserve and enhance Florida bonefish and tarpon fisheries and their respective environments



108580

through stewardship, research, education, and advocacy.

(106) UNIVERSITY OF GEORGIA LICENSE PLATES.—

(a) The department shall develop a University of Georgia license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "The University of Georgia" must appear at the bottom of the plate.

(b) The Georgia Bulldog Club of Jacksonville is the lead club on behalf of the University of Georgia Booster Clubs in this state. The annual use fees from the sale of the plate shall be distributed to the Georgia Bulldog Club of Jacksonville, together with statistics on sales of the license plates tabulated by county. The Georgia Bulldog Club of Jacksonville must distribute to each of the state's University of Georgia Booster Clubs on a pro-rata basis the moneys received from sales in the regions within the respective club's area for the purpose of awarding scholarships to Florida residents attending the University of Georgia. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program pursuant to s. 1009.531 and shall use the scholarship funds for tuition and other expenses related to attending the University of Georgia.

(107) UNIVERSITY OF ALABAMA LICENSE PLATES.—

(a) The department shall develop a University of Alabama license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Roll Tide" must appear at the bottom of



108580

the plate.

(b) Bama Orlando of Orlando is the lead club on behalf of
the University of Alabama State Alumni Association in this
state. The annual use fees from the sale of the plate shall be
distributed to Bama Orlando of Orlando, together with statistics
on sales of the license plates tabulated by county. Bama Orlando
of Orlando must distribute to each of the state's University of
Alabama Booster Clubs on a pro-rata basis the moneys received
from sales in the regions within the respective club's area for
the purpose of awarding scholarships to Florida residents
attending the University of Alabama. Students receiving these
scholarships must be eligible for the Florida Bright Futures
Scholarship Program pursuant to s. 1009.531 and shall use the
scholarship funds for tuition and other expenses related to
attending the University of Alabama.



215764

576-03812-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to license plates; amending s.
320.08053, F.S.; revising presale requirements for
issuance of a specialty plate; amending s. 320.08056,
F.S.; establishing an annual use fee for certain
specialty license plates; revising provisions for
discontinuing issuance of a specialty plate; providing
applicability; amending s. 320.08058, F.S.; revising
the design of the Special Olympics Florida license
plates; revising the distribution of proceeds for the
Fallen Law Enforcement Officers License Plate;
requiring the Department of Highway Safety and Motor
Vehicles to develop certain specialty license plates;
providing for distribution and use of fees collected
from the sale of the plates; amending s. 320.08062,
F.S.; directing the Department of Highway Safety and
Motor Vehicles to audit certain organizations that
receive funds from the sale of specialty license
plates; amending s. 320.0842, F.S.; providing for
issuance of a license plate to residents who qualify
for a free license plate as a veteran who uses a
wheelchair and for a certain Purple Heart license
plate; requiring certain wording and symbols on the
plate; providing that the plate entitles the resident
to specified privileges; requiring the eligible
applicant to be identified on the registration



215764

576-03812-17

certificate if more than one registrant is listed;
amending s. 320.089, F.S.; creating a special license
plate for recipients of the Bronze Star medal;
providing parameters for the design of the plate;
requiring the likeness of the Prisoner of War Medal to
appear on the Ex-POW license plate; making technical
changes; providing effective dates.

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

Section 1. Section 320.08053, Florida Statutes, is amended
to read:

320.08053 Establishment of Requirements for requests to
~~establish~~ specialty license plates.-

(1) If a specialty license plate requested by an
organization is approved by law, the organization must submit
the proposed art design for the specialty license plate to the
department, in a medium prescribed by the department, as soon as
practicable, but no later than 60 days after the act approving
the specialty license plate becomes a law.

(2) (a) Within 120 days following the specialty license
plate becoming law, the department shall establish a method to
issue a specialty license plate voucher to allow for the presale
of the specialty license plate. The processing fee as prescribed
in s. 320.08056, the service charge and branch fee as prescribed
in s. 320.04, and the annual use fee as prescribed in s.
320.08056 shall be charged for the voucher. All other applicable
fees shall be charged at the time of issuance of the license
plates.



215764

576-03812-17

(b) Within 24 months after the presale specialty license plate voucher is established, the approved specialty license plate organization must record with the department a minimum of 3,000 ~~1,000~~ voucher sales before manufacture of the license plate may begin ~~commence~~. If, at the conclusion of the 24-month presale period, the minimum sales requirement has ~~requirements~~ ~~have~~ not been met, the specialty plate is deauthorized and the department shall discontinue development of the plate and discontinue issuance of the presale vouchers. Upon deauthorization of the license plate, a purchaser of the license plate voucher may use the annual use fee collected as a credit towards any other specialty license plate or apply for a refund on a form prescribed by the department.

Section 2. Paragraphs (ffff) through (tttt) are added to subsection (4) of section 320.08056, Florida Statutes, and paragraphs (c), (d), and (e) are added to subsection (8) of that section, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ffff) Ducks Unlimited license plate, \$25.

(gggg) Sun Sea Smiles license plate, \$25.

(hhhh) Alpha Phi Alpha Fraternity license plate, \$25.

(iiii) Omega Psi Phi Fraternity license plate, \$25.

(jjjj) Kappa Alpha Psi Fraternity license plate, \$25.

(kkkk) Phi Beta Sigma Fraternity license plate, \$25.

(llll) Zeta Phi Beta Sorority license plate, \$25.

(mmmm) Delta Sigma Theta Sorority license plate, \$25.

(nnnn) Alpha Kappa Alpha Sorority license plate, \$25.



215764

576-03812-17

(oooo) Sigma Gamma Rho Sorority license plate, \$25.

(pppp) Dan Marino Foundation license plate, \$25.

(qqqq) Florida State Beekeepers Association license plate, \$25.

(rrrr) Orlando United license plate, \$25.

(ssss) Ethical Ecotourism license plate, \$25.

(tttt) Rotary license plate, \$25.

(8)

(c) A person issued a specialty license plate that has been discontinued by the department may keep the discontinued specialty license plate for the remainder of the 10-year license plate replacement period and must pay all other applicable registration fees. However, such person is exempt from paying the applicable specialty license plate fee under subsection (4) for the remainder of the 10-year license plate replacement period.

(d) If the department discontinues issuance of a specialty license plate, all annual use fees held or collected by the department shall be distributed within 180 days after the date the specialty license plate is discontinued. Of those fees, the department shall retain an amount sufficient to defray the applicable administrative and inventory closeout costs associated with discontinuance of the plate. The remaining funds shall be distributed to the specified organization or organizations as provided in s. 320.08058.

(e) If an organization that is the intended recipient of the funds pursuant to s. 320.08058 no longer exists, the department shall deposit any undisbursed funds into the Highway Safety Operating Trust Fund.



215764

576-03812-17

Section 3. Effective October 1, 2020, paragraph (a) of subsection (8) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(8) (a) The department must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 3,000 ~~1,000~~ plates for at least 12 consecutive months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 3,000 ~~1,000~~ plates. This paragraph does not apply to collegiate license plates established under s. 320.08058(3), license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, or Florida Professional Sports Team License plates established under s. 320.08058(9).

Section 4. Paragraph (a) of subsection (7) and paragraph (b) of subsection (80) of section 320.08058, Florida Statutes, are amended and subsections (84) through (98) are added to that section, to read:

320.08058 Specialty license plates.—

(7) SPECIAL OLYMPICS FLORIDA LICENSE PLATES.—

(a) Special Olympics Florida license plates must contain the official Special Olympics Florida logo and must bear a design and colors that are approved by the department. The word “Florida” must be centered at the top ~~bottom~~ of the plate, and the words “Be a Fan” ~~“Everyone Wins”~~ must be centered at the bottom ~~top~~ of the plate.

(80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.—



215764

576-03812-17

(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to a maximum of 10 percent of the proceeds for marketing to promote and market the plate. All remaining proceeds shall be distributed to and used by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects ~~The remainder of the proceeds shall be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc.~~

(84) DUCKS UNLIMITED LICENSE PLATES.—

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. Ducks Unlimited license plates must bear the colors and design approved by the department. The word “Florida” must appear at the top of the plate, and the words “Conserving Florida Wetlands” must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. A minimum of 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

(85) SUN SEA SMILES LICENSE PLATES.—

(a) The department shall develop a Sun Sea Smiles license



215764

576-03812-17

plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Sun Sea Smiles" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed as follows:

1. Five percent shall be distributed to the Florida Caribbean Charitable Foundation, Inc., to be used only for marketing of the Sun Sea Smiles license plate.

2. An additional 30 percent shall be distributed to the Florida Caribbean Charitable Foundation, Inc. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used as follows:

a. Sixty percent shall be used for a college scholarship program.

b. Fifteen percent shall be used to promote health and wellness for residents in this state who are of Caribbean descent.

c. Twenty-five percent shall be used to promote awareness of Caribbean culture within this state.

3. Twenty percent shall be distributed to the American Friends of Jamaica, Inc., a charitable, not-for-profit organization under s. 501(c)(3) of the Internal Revenue Code registered with the Department of Agriculture and Consumer Services and incorporated in New York, to be used as grants to promote social and community development among residents of this state. Of this amount, up to 5 percent may be used for administrative and marketing expenses.

4. Ten percent shall be distributed to Haitian Neighborhood



215764

576-03812-17

Center Sant La, Inc., to be used to promote social and community development. Of this amount, up to 5 percent may be used for administrative expenses.

5. Ten percent shall be distributed to Fanm Ayisyen nan Miyami, Inc., to be used to promote social and community development. Of this amount, up to 10 percent may be used for administrative expenses.

6. Twenty percent shall be distributed to Greater Caribbean American Cultural Coalition, Inc., to be used to promote awareness of Caribbean culture within this state. Of this amount, up to 5 percent may be used for administrative expenses.

7. Five percent shall be distributed to Little Haiti Optimist Foundation, Inc., to be used to promote awareness of Caribbean culture and youth development within this state. Of this amount, up to 5 percent may be used for administrative expenses.

(86) ALPHA PHI ALPHA FRATERNITY LICENSE PLATES.—

(a) The department shall develop an Alpha Phi Alpha Fraternity license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the name of the fraternity must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed as follows:

1. Ten percent shall be distributed to the Florida Federation of Alpha Chapters, Inc., and used solely for marketing of the Alpha Phi Alpha Fraternity license plate.

2. Eighty-five percent shall be distributed to the Florida



215764

576-03812-17

230 Federation of Alpha Chapters, Inc., and used to promote
231 community awareness and action through educational, economic,
232 and cultural service activities within Florida.

233 3. Five percent shall be distributed to the United Negro
234 College Fund, Inc., to be used for college scholarships for
235 Florida residents attending Florida's historically black
236 colleges and universities.

237 (87) OMEGA PSI PHI FRATERNITY LICENSE PLATES.-

238 (a) The department shall develop an Omega Psi Phi
239 Fraternity license plate as provided in this section and s.
240 320.08053. The plate must bear the colors and design approved by
241 the department. The word "Florida" must appear at the top of the
242 plate, and the name of the fraternity must appear at the bottom
243 of the plate.

244 (b) The annual use fees from the sale of the plate shall be
245 distributed as follows:

246 1. Ten percent shall be distributed to the State of Florida
247 Omega Friendship Foundation, Inc., and used solely for marketing
248 of the Omega Psi Phi Fraternity license plate.

249 2. Eighty-five percent shall be distributed to the State of
250 Florida Omega Friendship Foundation, Inc., and used to promote
251 community awareness and action through educational, economic,
252 and cultural service activities within Florida.

253 3. Five percent shall be distributed to the United Negro
254 College Fund, Inc., to be used for college scholarships for
255 Florida residents attending Florida's historically black
256 colleges and universities.

257 (88) KAPPA ALPHA PSI FRATERNITY LICENSE PLATES.-

258 (a) The department shall develop a Kappa Alpha Psi



215764

576-03812-17

259 Fraternity license plate as provided in this section and s.
260 320.08053. The plate must bear the colors and design approved by
261 the department. The word "Florida" must appear at the top of the
262 plate, and the name of the fraternity must appear at the bottom
263 of the plate.

264 (b) The annual use fees from the sale of the plate shall be
265 distributed as follows:

266 1. Ten percent shall be distributed to the Southern
267 Province of Kappa Alpha Psi Foundation, Inc., and used solely
268 for marketing of the Kappa Alpha Psi Fraternity license plate.

269 2. Eighty-five percent shall be distributed to the Southern
270 Province of Kappa Alpha Psi Foundation, Inc., and used to
271 promote community awareness and action through educational,
272 economic, and cultural service activities within Florida.

273 3. Five percent shall be distributed to the United Negro
274 College Fund, Inc., to be used for college scholarships for
275 Florida residents attending Florida's historically black
276 colleges and universities.

277 (89) PHI BETA SIGMA FRATERNITY LICENSE PLATES.-

278 (a) The department shall develop a Phi Beta Sigma
279 Fraternity license plate as provided in this section and s.
280 320.08053. The plate must bear the colors and design approved by
281 the department. The word "Florida" must appear at the top of the
282 plate, and the name of the fraternity must appear at the bottom
283 of the plate.

284 (b) The annual use fees from the sale of the plate shall be
285 distributed as follows:

286 1. Ten percent shall be distributed to TMB Charitable
287 Foundation, Inc., and used solely for marketing of the Phi Beta



215764

576-03812-17

288 Sigma Fraternity license plate.

289 2. Eighty-five percent shall be distributed to TMB
290 Charitable Foundation, Inc., and used to promote community
291 awareness and action through educational, economic, and cultural
292 service activities within Florida.

293 3. Five percent shall be distributed to the United Negro
294 College Fund, Inc., to be used for college scholarships for
295 Florida residents attending Florida's historically black
296 colleges and universities.

297 (90) ZETA PHI BETA SORORITY LICENSE PLATES.-

298 (a) The department shall develop a Zeta Phi Beta Sorority
299 license plate as provided in this section and s. 320.08053. The
300 plate must bear the colors and design approved by the
301 department. The word "Florida" must appear at the top of the
302 plate, and the name of the sorority must appear at the bottom of
303 the plate.

304 (b) The annual use fees from the sale of the plate shall be
305 distributed as follows:

306 1. Ten percent shall be distributed to Florida Pearls,
307 Inc., and used solely for marketing of the Zeta Phi Beta
308 Sorority license plate.

309 2. Eighty-five percent shall be distributed to Florida
310 Pearls, Inc., and used to promote community awareness and action
311 through educational, economic, and cultural service activities
312 within Florida.

313 3. Five percent shall be distributed to the United Negro
314 College Fund, Inc., to be used for college scholarships for
315 Florida residents attending Florida's historically black
316 colleges and universities.



215764

576-03812-17

317 (91) DELTA SIGMA THETA SORORITY LICENSE PLATES.-

318 (a) The department shall develop a Delta Sigma Theta
319 Sorority license plate as provided in this section and s.
320 320.08053. The plate must bear the colors and design approved by
321 the department. The word "Florida" must appear at the top of the
322 plate, and the name of the sorority must appear at the bottom of
323 the plate.

324 (b) The annual use fees from the sale of the plate shall be
325 distributed as follows:

326 1. Ten percent shall be distributed to the Delta Research
327 and Educational Foundation, Inc., and used solely for marketing
328 of the Delta Sigma Theta Sorority license plate.

329 2. Eighty-five percent shall be distributed to the Delta
330 Research and Educational Foundation, Inc., and used to promote
331 community awareness and action through educational, economic,
332 and cultural service activities within Florida.

333 3. Five percent shall be distributed to the United Negro
334 College Fund, Inc., to be used for college scholarships for
335 Florida residents attending Florida's historically black
336 colleges and universities.

337 (92) ALPHA KAPPA ALPHA SORORITY LICENSE PLATES.-

338 (a) The department shall develop an Alpha Kappa Alpha
339 Sorority license plate as provided in this section and s.
340 320.08053. The plate must bear the colors and design approved by
341 the department. The word "Florida" must appear at the top of the
342 plate, and the name of the sorority must appear at the bottom of
343 the plate.

344 (b) The annual use fees from the sale of the plate shall be
345 distributed as follows:



215764

576-03812-17

346 1. Ten percent shall be distributed to the Alpha Kappa
347 Alpha Educational Advancement Foundation, Inc., and used solely
348 for marketing of the Alpha Kappa Alpha Sorority license plate.
349 2. Eighty-five percent shall be distributed to the Alpha
350 Kappa Alpha Educational Advancement Foundation, Inc., and used
351 to promote community awareness and action through educational,
352 economic, and cultural service activities within Florida.
353 3. Five percent shall be distributed to the United Negro
354 College Fund, Inc., to be used for college scholarships for
355 Florida residents attending Florida's historically black
356 colleges and universities.
357 (93) SIGMA GAMMA RHO SORORITY LICENSE PLATES.-
358 (a) The department shall develop a Sigma Gamma Rho Sorority
359 license plate as provided in this section and s. 320.08053. The
360 plate must bear the colors and design approved by the
361 department. The word "Florida" must appear at the top of the
362 plate, and the name of the sorority must appear at the bottom of
363 the plate.
364 (b) The annual use fees from the sale of the plate shall be
365 distributed as follows:
366 1. Ten percent shall be distributed to the Sigma Gamma Rho
367 Sorority National Education Fund, Inc., and used solely for
368 marketing of the Sigma Gamma Rho Sorority license plate.
369 2. Eighty-five percent shall be distributed to the Sigma
370 Gamma Rho Sorority National Education Fund, Inc., and used to
371 promote community awareness and action through educational,
372 economic, and cultural service activities within Florida.
373 3. Five percent shall be distributed to the United Negro
374 College Fund, Inc., to be used for college scholarships for



215764

576-03812-17

375 Florida residents attending Florida's historically black
376 colleges and universities.
377 (94) DAN MARINO FOUNDATION LICENSE PLATES.-
378 (a) The department shall develop a Dan Marino Foundation
379 license plate as provided in this section and s. 320.08053. Dan
380 Marino Foundation license plates must bear the colors and design
381 approved by the department. The word "Florida" must appear at
382 the top of the plate, and the words "Marino Campus" must appear
383 at the bottom of the plate.
384 (b) The annual use fees from the sale of the plate shall be
385 distributed to the Dan Marino Foundation, Inc., a Florida
386 nonprofit corporation, which may use up to 10 percent of such
387 fees for administrative costs and marketing of the plate. The
388 remainder of the fees shall be used by the Dan Marino
389 Foundation, Inc., to assist Floridians with developmental
390 disabilities to become employed, independent, and productive,
391 and to promote and fund educational scholarships and awareness
392 of these services.
393 (95) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.-
394 (a) The department shall develop a Florida State Beekeepers
395 Association license plate as provided in this section and s.
396 320.08053. The plate must bear the colors and design approved by
397 the department. The word "Florida" must appear at the top of the
398 plate, and the words "Save the Bees" must appear at the bottom
399 of the plate.
400 (b) The annual use fees shall be distributed to the Florida
401 State Beekeepers Association, a Florida nonprofit corporation.
402 The Florida State Beekeepers Association may use up to 18
403 percent of the annual use fees for:



215764

576-03812-17

1. Direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process of the license plate. All vendors associated with the administrative costs shall be selected by competitive bid.

2. Promotion and marketing costs of the license plate.

(c) The remaining funds shall be distributed to the Florida State Beekeepers Association and shall be used to raise awareness of the importance of beekeeping to Florida agriculture by funding honeybee research, education, outreach, and husbandry. The Florida State Beekeepers Association board of managers must approve and is accountable for all such expenditures.

(96) ORLANDO UNITED LICENSE PLATES.-

(a) The department shall develop an Orlando United license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Orlando United" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed as follows:

1. Seven percent shall be distributed to the Mental Health Association of Central Florida, Inc., to be used for marketing of the license plate.

2. Thirty-one percent shall be distributed to the Mental Health Association of Central Florida, Inc. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016.



215764

576-03812-17

3. Thirty-one percent shall be distributed to the Hispanic Federation, Inc., a charitable, not-for-profit organization under s. 501(c)(3) of the Internal Revenue Code registered with the Department of Agriculture and Consumer Services and incorporated in New York. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016, through the Proyecto Somos Orlando campaign operated by the Hispanic Federation, Inc.

4. Thirty-one percent shall be distributed to Two Spirit Health Services, Inc. Of this amount, up to 5 percent may be used for administrative expenses, and the remainder shall be used to offer free personalized counseling to any person affected by the shooting at the Pulse nightclub in Orlando, Florida, on June 12, 2016.

(97) ETHICAL ECOTOURISM LICENSE PLATES.-

(a) The department shall develop an Ethical Ecotourism license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and words that are approved by the department must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed equally between the Florida Society for Ethical Ecotourism and Paddle Florida, Inc., each of which may use up to 10 percent of the proceeds for administrative costs and marketing of the plate. The balance of the annual use fees shall be used by the Florida Society for Ethical Ecotourism to provide environmental education and awareness that encourages behaviors



215764

576-03812-17

462 that contribute to the sustainability of Florida's natural
463 ecosystems and resources and Paddle Florida, Inc., to raise
464 awareness about water conservation, wildlife preservation,
465 restoration of springs, and protection of waterways in this
466 state.

467 (98) ROTARY LICENSE PLATES.-

468 (a) The department shall develop a Rotary license plate as
469 provided in this section and s. 320.08053. The plate must bear
470 the colors and design approved by the department. The word
471 "Florida" must appear at the top of the plate, and the word
472 "Rotary" must appear on the bottom of the plate. The license
473 plate must bear the Rotary International wheel emblem.

474 (b) The annual use fees shall be distributed to the
475 Community Foundation of Tampa Bay, Inc., to distribute as
476 follows:

477 1. Up to 10 percent for administrative costs and for
478 marketing of the plate.

479 2. Ten percent to Rotary's Camp Florida for direct support
480 to all programs and services provided to special needs children
481 who attend the camp.

482 3. The remainder shall be distributed, proportionally based
483 on sales, to each Rotary district in the state in support of
484 Rotary youth programs in Florida.

485 Section 5. Section 320.08062, Florida Statutes, is amended
486 to read:

487 320.08062 Audits ~~and attestations~~ required; annual use fees
488 of specialty license plates.-

489 (1) (a) All organizations that receive annual use fee
490 proceeds from the department are responsible for ensuring that



215764

576-03812-17

491 proceeds are used in accordance with ss. 320.08056 and
492 320.08058.

493 (b) Any organization not subject to audit pursuant to s.
494 215.97 shall annually attest, under penalties of perjury, that
495 such proceeds were used in compliance with ss. 320.08056 and
496 320.08058. The attestation shall be made annually in a form and
497 format determined by the department. In addition, the department
498 shall audit any such organization every 2 years to ensure
499 proceeds have been used in compliance with ss. 320.08056 and
500 320.08058.

501 (c) Any organization subject to audit pursuant to s. 215.97
502 shall submit an audit report in accordance with rules
503 promulgated by the Auditor General. The annual attestation shall
504 be submitted to the department for review within 9 months after
505 the end of the organization's fiscal year.

506 (2) (a) Within 120 days after receiving an organization's
507 audit or attestation, the department shall determine which
508 recipients of revenues from specialty license plate annual use
509 fees have not complied with subsection (1). In determining
510 compliance, the department may commission an independent
511 actuarial consultant, or an independent certified public
512 accountant, who has expertise in nonprofit and charitable
513 organizations.

514 (b) The department must discontinue the distribution of
515 revenues to any organization failing to submit the required
516 documentation as required in subsection (1), but may resume
517 distribution of the revenues upon receipt of the required
518 information.

519 (c) If the department or its designee determines that an



215764

576-03812-17

520 organization has not complied or has failed to use the revenues
521 in accordance with ss. 320.08056 and 320.08058, the department
522 must discontinue the distribution of the revenues to the
523 organization. The department shall notify the organization of
524 its findings and direct the organization to make the changes
525 necessary in order to comply with this chapter. If the officers
526 of the organization sign an affidavit under penalties of perjury
527 stating that they acknowledge the findings of the department and
528 attest that they have taken corrective action and that the
529 organization will submit to a followup review by the department,
530 the department may resume the distribution of revenues.

531 (d) If an organization fails to comply with the
532 department's recommendations and corrective actions as outlined
533 in paragraph (c), the revenue distributions shall be
534 discontinued until completion of the next regular session of the
535 Legislature. The department shall notify the President of the
536 Senate and the Speaker of the House of Representatives by the
537 first day of the next regular session of any organization whose
538 revenues have been withheld as a result of this paragraph. If
539 the Legislature does not provide direction to the organization
540 and the department regarding the status of the undistributed
541 revenues, the department shall deauthorize the plate and the
542 undistributed revenues shall be immediately deposited into the
543 Highway Safety Operating Trust Fund.

544 (3) The department or its designee has the authority to
545 examine all records pertaining to the use of funds from the sale
546 of specialty license plates.

547 Section 6. Subsection (5) is added to section 320.0842,
548 Florida Statutes, to read:



215764

576-03812-17

549 320.0842 Free motor vehicle license plates to veterans who
550 use wheelchairs.-

551 (5) An owner or lessee of a motor vehicle who resides in
552 this state and qualifies for a license plate under this section
553 and a Purple Heart license plate under s. 320.089, upon
554 application to the department, shall be issued a license plate
555 stamped with the term "Combat-wounded Veteran" followed by the
556 serial number of the license plate and the international symbol
557 of accessibility. The license plate entitles the person to all
558 privileges afforded by a license plate issued under this
559 section. When more than one registrant is listed on the
560 registration issued under this section, the eligible applicant
561 shall be noted on the registration certificate.

562 Section 7. Section 320.089, Florida Statutes, is amended to
563 read:

564 ~~320.089 Veterans of the United States Armed Forces; members~~
565 ~~of National Guard; survivors of Pearl Harbor; Purple Heart medal~~
566 ~~recipients; active or retired United States Armed Forces~~
567 ~~reservists; Combat Infantry Badge, Combat Medical Badge, or~~
568 ~~Combat Action Badge recipients; Combat Action Ribbon recipients;~~
569 ~~Air Force Combat Action Medal recipients; Distinguished Flying~~
570 ~~Cross recipients; former prisoners of war; Korean War Veterans;~~
571 ~~Vietnam War Veterans; Operation Desert Shield Veterans;~~
572 ~~Operation Desert Storm Veterans; Operation Enduring Freedom~~
573 ~~Veterans; Operation Iraqi Freedom Veterans; Women Veterans;~~
574 ~~World War II Veterans; and Navy Submariners; Special license~~
575 ~~plates for military servicemembers, veterans, and Pearl Harbor~~
576 ~~Survivors; fee.-~~

577 (1) (a) Upon application to the department and payment of



215764

576-03812-17

578 the license tax for the vehicle as provided in s. 320.08, a
579 resident of the state who owns or leases ~~Each owner or lessee of~~
580 an automobile or truck for private use or recreational vehicle
581 as specified in s. 320.08(9)(c) or (d), which is not used for
582 hire or commercial use, shall be issued a license plate pursuant
583 to the following if the applicant provides the department with
584 proof that he or she meets the qualifications listed in this
585 section for the applicable license plate:

586 1. A person released or discharged from any branch ~~who is a~~
587 ~~resident of the state and a veteran~~ of the United States Armed
588 Forces shall be issued a license plate stamped with the words
589 "Veteran" or "Woman Veteran" followed by the serial number of
590 the license plate. ~~a Woman Veteran.~~

591 2. A World War II Veteran shall be issued a license plate
592 stamped with the words "WWII Veteran" followed by the serial
593 number of the license plate.

594 3. A Navy Submariner shall be issued a license plate
595 stamped with the words "Navy Submariner" followed by the serial
596 number of the license plate.

597 4. An active or retired member of the Florida National
598 Guard shall be issued a license plate stamped with the words
599 "National Guard" followed by the serial number of the license
600 plate.

601 5. A member of the Pearl Harbor Survivors Association or
602 other person on active military duty in Pearl Harbor on December
603 7, 1941, shall be issued a license plate stamped with the words
604 "Pearl Harbor Survivor" followed by the serial number of the
605 license plate. ~~a survivor of the attack on Pearl Harbor,~~

606 6. A recipient of the Purple Heart medal shall be issued a



215764

576-03812-17

607 license plate stamped with the words "Combat-wounded Veteran"
608 followed by the serial number of the license plate. The Purple
609 Heart plate may have the words "Purple Heart" stamped on the
610 plate and the likeness of the Purple Heart medal appearing on
611 the plate.

612 7. An active or retired member of any branch of the United
613 States Armed Forces Reserve shall be issued a license plate
614 stamped with the words "U.S. Reserve" followed by the serial
615 number of the license plate.

616 8. A member of the Combat Infantrymen's Association, Inc.,
617 or a recipient of the Combat Infantry Badge, Combat Medical
618 Badge, Combat Action Badge, Combat Action Ribbon, or Air Force
619 Combat Action Medal shall be issued a license plate stamped with
620 the words "Combat Infantry Badge," "Combat Medical Badge,"
621 "Combat Action Badge," "Combat Action Ribbon," or "Air Force
622 Combat Action Medal," as appropriate, and a likeness of the
623 related campaign badge, ribbon, or medal followed by the serial
624 number of the license plate.

625 9. A recipient of the ~~or~~ Distinguished Flying Cross shall
626 be issued a license plate stamped with the words "Distinguished
627 Flying Cross" and a likeness of the Distinguished Flying Cross
628 followed by the serial number of the license plate.

629 10. A recipient of the Bronze Star shall be issued a
630 license plate stamped with the term "Bronze Star" and a likeness
631 of the Bronze Star Medal followed by the serial number of the
632 license plate. A recipient of the Bronze Star with the "V"
633 device shall be issued a license plate stamped with the words
634 "Bronze Star" and a likeness of the Bronze Star Medal with the
635 "V" device emblem followed by the serial number of the license



215764

576-03812-17

636 ~~plate, upon application to the department, accompanied by proof~~
637 ~~of release or discharge from any branch of the United States~~
638 ~~Armed Forces, proof of active membership or retired status in~~
639 ~~the Florida National Guard, proof of membership in the Pearl~~
640 ~~Harbor Survivors Association or proof of active military duty in~~
641 ~~Pearl Harbor on December 7, 1941, proof of being a Purple Heart~~
642 ~~medal recipient, proof of active or retired membership in any~~
643 ~~branch of the United States Armed Forces Reserve, or proof of~~
644 ~~membership in the Combat Infantrymen's Association, Inc., proof~~
645 ~~of being a recipient of the Combat Infantry Badge, Combat~~
646 ~~Medical Badge, Combat Action Badge, Combat Action Ribbon, Air~~
647 ~~Force Combat Action Medal, or Distinguished Flying Cross, and~~
648 ~~upon payment of the license tax for the vehicle as provided in~~
649 ~~s. 320.08, shall be issued a license plate as provided by s.~~
650 ~~320.06 which, in lieu of the serial numbers prescribed by s.~~
651 ~~320.06, is stamped with the words "Veteran," "Woman Veteran,"~~
652 ~~"WWII Veteran," "Navy Submariner," "National Guard," "Pearl~~
653 ~~Harbor Survivor," "Combat wounded veteran," "U.S. Reserve,"~~
654 ~~"Combat Infantry Badge," "Combat Medical Badge," "Combat Action~~
655 ~~Badge," "Combat Action Ribbon," "Air Force Combat Action Medal,"~~
656 ~~or "Distinguished Flying Cross," as appropriate, and a likeness~~
657 ~~of the related campaign medal or badge, followed by the serial~~
658 ~~number of the license plate. Additionally, the Purple Heart~~
659 ~~plate may have the words "Purple Heart" stamped on the plate and~~
660 ~~the likeness of the Purple Heart medal appearing on the plate.~~

661 (b) Notwithstanding any ~~other provision of~~ law to the
662 contrary, ~~beginning with fiscal year 2002-2003 and annually~~
663 ~~thereafter,~~ the first \$100,000 in general revenue generated from
664 the sale of license plates issued under this section shall be



215764

576-03812-17

665 deposited into the Grants and Donations Trust Fund, as described
666 in s. 296.38(2), to be used for the purposes established by law
667 for that trust fund. Any additional general revenue generated
668 from the sale of such plates shall be deposited into the State
669 Homes for Veterans Trust Fund and used solely to construct,
670 operate, and maintain domiciliary and nursing homes for
671 veterans, subject to the requirements of chapter 216.

672 (c) Any revenue generated from the sale of Woman Veteran
673 license plates must be deposited into the Operations and
674 Maintenance Trust Fund administered by the Department of
675 Veterans' Affairs pursuant to s. 20.375(3) and must be used
676 solely for the purpose of creating and implementing programs to
677 benefit women veterans.

678 (d) Notwithstanding any ~~provisions of~~ law to the contrary,
679 an applicant for a Pearl Harbor Survivor license plate or a
680 Purple Heart license plate who also qualifies for a disabled
681 veteran's license plate under s. 320.084 shall be issued the
682 appropriate special license plate without payment of the license
683 tax imposed by s. 320.08.

684 (2) Each owner or lessee of an automobile or truck for
685 private use, a truck weighing not more than 7,999 pounds, or a
686 recreational vehicle as specified in s. 320.08(9)(c) or (d),
687 which is not used for hire or commercial use who is a resident
688 of this state and who is a former prisoner of war, or his or her
689 unremarried surviving spouse, upon application to the
690 department, shall be issued a license plate as provided in s.
691 320.06 which may have the words "Ex-POW", stamped on the plate
692 and the likeness of the Prisoner of War Medal with the words
693 "Ex-POW" followed by the serial number. Each application shall



215764

576-03812-17

694 be accompanied by proof that the applicant meets the
695 qualifications specified in paragraph (a) or paragraph (b).

696 (a) A citizen of the United States who served as a member
697 of the Armed Forces of the United States or the armed forces of
698 a nation allied with the United States who was held as a
699 prisoner of war at such time as the Armed Forces of the United
700 States were engaged in combat, or his or her unremarried
701 surviving spouse, may be issued the special license plate
702 provided for in this subsection without payment of the license
703 tax imposed by s. 320.08.

704 (b) A person who was serving as a civilian with the consent
705 of the United States Government, or a person who was a member of
706 the Armed Forces of the United States while he or she was not a
707 United States citizen and was held as a prisoner of war when the
708 Armed Forces of the United States were engaged in combat, or his
709 or her unremarried surviving spouse, may be issued the special
710 license plate provided for in this subsection upon payment of
711 the license tax imposed by s. 320.08.

712 (3) Each owner or lessee of an automobile or truck for
713 private use, a truck weighing not more than 7,999 pounds, or a
714 recreational vehicle as specified in s. 320.08(9)(c) or (d),
715 which is not used for hire or commercial use who is a resident
716 of this state and who is the unremarried surviving spouse of a
717 recipient of the Purple Heart medal, upon application to the
718 department accompanied by the payment of the required fees,
719 shall be issued a license plate as provided in s. 320.06 which
720 is stamped with the words "Purple Heart" and the likeness of the
721 Purple Heart medal followed by the serial number. Each
722 application shall be accompanied by proof that the applicant is



215764

576-03812-17

723 the unremarried surviving spouse of a recipient of the Purple
724 Heart medal.

725 (4) The owner or lessee of an automobile or truck for
726 private use, a truck weighing not more than 7,999 pounds, or a
727 recreational vehicle as specified in s. 320.08(9)(c) or (d)
728 which is not used for hire or commercial use who is a resident
729 of this state and a current or former member of the United
730 States Armed Forces who was deployed and served in Korea during
731 the Korean War as defined in s. 1.01(14), upon application to
732 the department accompanied by proof of active membership or
733 former active duty status during the Korean War and payment of
734 the license tax for the vehicle as provided in s. 320.08, shall
735 be issued a license plate as provided by s. 320.06 which, in
736 lieu of the registration license number prescribed by s. 320.06,
737 is stamped with the words "Korean War Veteran" and a likeness of
738 the Korean Service Medal, followed by the registration license
739 number of the plate. Proof that the applicant was awarded the
740 Korean Service Medal is sufficient to establish eligibility for
741 the license plate.

742 (5) The owner or lessee of an automobile or truck for
743 private use, a truck weighing not more than 7,999 pounds, or a
744 recreational vehicle as specified in s. 320.08(9)(c) or (d)
745 which is not used for hire or commercial use who is a resident
746 of this state and a current or former member of the United
747 States military who was deployed and served in Vietnam during
748 United States military deployment in Indochina, upon application
749 to the department accompanied by proof of active membership or
750 former active duty status during these operations and payment of
751 the license tax for the vehicle as provided in s. 320.08, shall



215764

576-03812-17

752 be issued a license plate as provided by s. 320.06 which, in
753 lieu of the registration license number prescribed by s. 320.06,
754 is stamped with the words "Vietnam War Veteran" and a likeness
755 of the Vietnam Service Medal, followed by the registration
756 license number of the plate. Proof that the applicant was
757 awarded the Vietnam Service Medal is sufficient to establish
758 eligibility for the license plate.

759 (6) The owner or lessee of an automobile or truck for
760 private use, a truck weighing not more than 7,999 pounds, or a
761 recreational vehicle as specified in s. 320.08(9)(c) or (d)
762 which is not used for hire or commercial use who is a resident
763 of this state and a current or former member of the United
764 States military who was deployed and served in Saudi Arabia,
765 Kuwait, or another area of the Persian Gulf during Operation
766 Desert Shield or Operation Desert Storm; in Afghanistan during
767 Operation Enduring Freedom; or in Iraq during Operation Iraqi
768 Freedom, upon application to the department accompanied by proof
769 of active membership or former active duty status during one of
770 these operations and payment of the license tax for the vehicle
771 as provided in s. 320.08, shall be issued a license plate as
772 provided by s. 320.06 which, in lieu of the registration license
773 number prescribed by s. 320.06, is stamped with the words
774 "Operation Desert Shield," "Operation Desert Storm," "Operation
775 Enduring Freedom," or "Operation Iraqi Freedom," as appropriate,
776 and a likeness of the related campaign medal followed by the
777 registration license number of the plate. Proof that the
778 applicant was awarded the Southwest Asia Service Medal, Iraq
779 Campaign Medal, Afghanistan Campaign Medal, or Global War on
780 Terrorism Expeditionary Medal is sufficient to establish



215764

576-03812-17

781 eligibility for the appropriate license plate.

782 Section 8. Except as otherwise expressly provided in this
783 act, this act shall take effect October 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 56

INTRODUCER: Transportation Committee and Senator Bean and others

SUBJECT: Specialty License Plates

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.	Wells	Pitts	ATD	Recommend: Fav/CS
3.	Pitts	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 56 directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a Ducks Unlimited specialty license plate, establishes a \$25 annual use fee for the plate, and provides the distribution and use of fees collected from the sale of the plate.

The bill also amends the distribution of the Fallen Law Enforcement Officers specialty license plate, providing the Police and Kids Foundation, Inc. the ability to use proceeds from the sale of the plate for the foundation, rather than use only the interest earned on those proceeds.

The DHSMV estimates programming and implementation will cost \$7,245. The DHSMV is authorized to retain revenues from the first proceeds of sales to defray departmental costs.

The bill takes effect October 1, 2017.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an

¹ A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited Feb. 14, 2017).

annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute.³

In order to establish a specialty license plate, s. 320.08053, F.S., requires the plate must first be adopted into statute. Upon becoming law:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue pre-sale vouchers for the approved specialty license plate; and
- Within 24 months after the pre-sale vouchers are established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin.

If, at the end of the 24-month pre-sale period, the minimum sales requirement has not been met, the DHSMV will discontinue the plate and issuance of the pre-sale voucher. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁴

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁵ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁶

DHSMV Costs Defrayed

The DHSMV retains sufficient annual use fees, from the sale of the specialty plates, to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.⁷

Discontinuance of Specialty Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates. Collegiate plates are exempt from the minimum plate requirement.⁸ The specialty license plate must also be discontinued if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.⁹

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

⁴ Section 320.08053(2)(b), F.S.

⁵ Section 320.08056(10)(a), F.S.

⁶ Section 320.08062, F.S.

⁷ Section 320.08056(7), F.S.

⁸ Section 320.08056(8)(a), F.S.

⁹ Section 320.08056(8)(b), F.S.

Ducks Unlimited, Inc.¹⁰

Ducks Unlimited, Inc. is a non-profit, volunteer-based organization whose mission is to conserve, restore, and manage wetlands and associated habitats for North America's waterfowl. The organization was created in 1937, and currently has habitat projects in all 50 states, every Canadian province, and key areas of Mexico and Latin America. According to the Ducks Unlimited website, Ducks Unlimited is the world's leader in wetlands and waterfowl conservation organization.

In Fiscal Year 2016, the organization reported receiving revenues and support of over \$221 million, with 84 percent going to wetlands and waterfowl conservation and education.¹¹

Fallen Law Enforcement Officers Specialty License Plate

The Fallen Law Enforcement Officers specialty license plate was created by law in 2014¹² with an annual fee of \$25. As of February 1, 2017, the plate had 4,689 active registrations.¹³ Currently, proceeds from sale of the plate are distributed to the Police and Kids Foundation, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate, and the remaining proceeds are invested and reinvested. The foundation is authorized to use the interest earnings from such investments for the operation of the foundation.¹⁴

III. Effect of Proposed Changes:

The bill directs the DHSMV to create a Ducks Unlimited specialty license plate, with an annual fee of \$25 to be distributed to Ducks Unlimited, Inc. The organization may use up to 5 percent of the fees for administrative costs and marketing of the plate, and at least 95 percent of fees must be used in Florida to support the organization's mission and efforts for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

The plate must bear the colors and design approved by the DHSMV, with the word "Florida" at the top of the plate, and the words "Conserving Florida Wetlands" at the bottom of the plate.

The bill also amends the distribution of the Fallen Law Enforcement Officers specialty license plate to allow the Police and Kids Foundation, Inc. to use at least 90 percent of the proceeds of the license plate sales (rather than just the interest earnings thereon) for the foundation's operations, activities, programs, and projects.

The bill takes effect October 1, 2017.

¹⁰ See Ducks Unlimited website, <http://www.ducks.org/> (last visited Feb. 13, 2017).

¹¹ Ducks Unlimited website, *2016 Annual Report*, <http://www.ducks.org/about-ducks-unlimited/ducks-unlimited-financial-information/du-2016-annual-report> (last visited Feb. 13, 2017).

¹² Chapter 2014-168, Laws of Florida

¹³ DHSMV website, *Monthly Active Specialty Plates* (February 2017), available at <https://services.flhsmv.gov/specialtyplates/ActivePlates.aspx> (last visited Feb. 21, 2017).

¹⁴ Section 320.08058(80), F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Individuals who choose to purchase a Ducks Unlimited specialty license plate will pay a \$25 annual use fee in addition to appropriate license taxes and fees. Ducks Unlimited, Inc., will receive revenue from each Ducks Unlimited plate purchase.

The Police and Kids Foundation, Inc. will be able to use the proceeds from the sale of the Fallen Law Enforcement Officers license plate (rather than only the interest earnings on those proceeds) for its operations, activities, programs, and projects.

C. Government Sector Impact:

The DHSMV estimates programming and implementation of the new license plate will cost \$7,245.¹⁵ The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁵ DHSMV, *2017 Agency Legislative Bill Analysis: SB 56* (Jan. 6, 2017) (on file with the Senate Committee on Transportation).

¹⁶ Section 320.08056(7), F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08056 and 320.08058.

IX. Additional Information:

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

CS by Transportation on February 21, 2017:

The CS:

- Clarifies that Ducks Unlimited, Inc. is to use the proceeds received from the Ducks Unlimited specialty plate within Florida.
- Amends the distribution of the Fallen Law Enforcement Officers specialty license plate to allow the Police and Kids Foundation, Inc. to use the remaining proceeds from the sale of the plate, after up to 10 percent is used for marketing, for the organization's operations, activities, programs, and projects.

- B. **Amendments:**

None.

By the Committee on Transportation; and Senators Bean and Baxley

596-01941-17

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A bill to be entitled

An act relating to specialty license plates; amending s. 320.08056, F.S.; establishing an annual use fee for the Ducks Unlimited license plate; amending s. 320.08058, F.S.; revising the distribution of proceeds for the Fallen Law Enforcement Officers License Plate; requiring the Department of Highway Safety and Motor Vehicles to develop a Ducks Unlimited license plate; providing for distribution and use of fees collected from the sale of the plates; providing an effective date.

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

Section 1. Paragraph (ffff) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ffff) Ducks Unlimited license plate, \$25.

Section 2. Paragraph (b) of subsection (80) of section 320.08058, Florida Statutes, is amended and subsection (84) is added to that section, to read:

320.08058 Specialty license plates.—

(80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.—

(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to a maximum of 10 percent of the proceeds for marketing to promote and market the plate. All remaining proceeds shall be distributed to and used

596-01941-17

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by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects. The remainder of the proceeds shall be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc.

(84) DUCKS UNLIMITED LICENSE PLATES.—

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. Ducks Unlimited license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. A minimum of 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 282 (184632)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Finance and Tax); Community Affairs Committee; and Senator Steube

SUBJECT: Towing and Storage Fees

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Fav/CS
2.	Jones	Miller	TR	Favorable
3.	Gross	Diez-Arguelles	AFT	Recommend: Fav/CS
4.	Gross	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 282 prohibits a county or municipality from imposing a fee on an authorized wrecker operator or a vehicle storage company for towing, storing, or impounding a vehicle. This prohibition does not affect the authority of a county or municipality to levy a local business tax.

The bill also prohibits a county or municipality from imposing a charge, cost, expense, fine, fee, or penalty, other than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner of a vehicle removed and impounded by an authorized wrecker operator.

In addition, the bill provides that a county or municipality may impose a reasonable fee or charge for towing and storage not to exceed maximum rates adopted by the county or municipality, if the county or municipality has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

The Revenue Estimating Conference has not estimated the fiscal impact of this bill.

The bill takes effect July 1, 2017.

II. Present Situation:

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.¹ After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods. Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”²

Unauthorized wrecker operators are not permitted to initiate contact with a wrecked or disabled vehicle.³ If the operator of a disabled vehicle initiates contact, an unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- His or her driver’s license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- Maximum rates for towing and storage.⁴

The unauthorized wrecker operator is also required to disclose this information in the presence of any law enforcement officer. It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.⁵ An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.⁶ Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.⁷

Counties are required to establish maximum rates for the towing and storage of vehicles removed from private property, removed from the scene of an accident, or where the vehicle is towed at the request of a law enforcement officer.⁸ Municipalities are also authorized to adopt maximum rate ordinances.⁹

¹ Section 323.002(1)(c), F.S.

² Section 323.002(1), F.S.

³ Section 323.002(2)(b), F.S.

⁴ Section 323.002(2)(c), F.S.

⁵ *Id.*

⁶ Section 323.002(2)(d), F.S.

⁷ Section 323.002(2)(a), F.S.

⁸ Section 125.0103(1)(c), F.S.

⁹ Section 166.043(1)(c), F.S.

Vehicle Holds and Wrecker Operator Storage Facilities

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to 5 business days.¹⁰ A hold may be applied where the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.¹¹

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 or 322.34, F.S., and when the officer is complying with a court order.¹²

The hold must be in writing and include:

- The name and agency of the law enforcement officer placing the hold;
- The date and time the hold is placed on the vehicle;
- A general description of the vehicle;
- The specific reason for the hold;
- The condition of the vehicle;
- The location where the vehicle is being held; and
- The name and contact information for the wrecker operator and storage facility.¹³

The investigating agency must inform the wrecker operator within the 5-day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁴ The vehicle owner is liable for towing and storage charges for the first 5 days. If the vehicle is to be held beyond 5 days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.¹⁵

Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.¹⁶ However, local governments have authority to impose user fees or assessments by local ordinance, that authority is within the constitutional and statutory home rule powers of local governments.¹⁷ The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by other members of public.¹⁸ On the other hand, a tax is a "forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed."¹⁹

¹⁰ Section 323.001(1), F.S.

¹¹ Section 323.001(4)(a)-(e), F.S.

¹² Section 323.001(4)(f)-(g), F.S.

¹³ Section 323.001(5), F.S.

¹⁴ Section 323.001(2), F.S.

¹⁵ Section 323.001(2)(a)-(b), F.S.

¹⁶ Art. VII, s. 1(a), Fla. Const.

¹⁷ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

¹⁸ *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So. 2d 756, 758 (Fla. 3rd DCA 2002).

¹⁹ *Id.* at 758-59 (citation omitted).

Usually a fee is applied for the use of a service. The fee rate is tied directly to the cost of maintaining the service. Money collected from a fee is generally not applied to uses other than to provide the service for which the fee is applied.

Administrative Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies. The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.²⁰ The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500), hearing costs (\$50), and towing and storage fees (\$125 plus \$25 per day) to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees.
- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The same process and rate structure is employed by the City of Bradenton.²¹

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.²²

The City of Winter Springs imposes an administrative fee for impoundment arising from 12 offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.²³ The registered owner may request a hearing, accruing additional storage fees either pending the hearing or posting a bond equal to the amount of the administrative fee (\$550). If the registered owner waives the right to a hearing, the administrative fee is reduced to \$250. These fees are payable to the city but are collected by towing companies.²⁴

²⁰ Sarasota Police Department, *Vehicle Seizure Program*, available at <http://www.sarasotapd.org/vehicle-seizure-program/> (last visited Mar. 29, 2017).

²¹ Bradenton, FL Code of Ordinances, ch. 54, art. IV (2013).

²² Sweetwater, FL Code of Ordinances, ch. 42-1, s. 42.1(c) (2013).

²³ City of Winter Springs, Ordinance No. 2016-01 (effective October 23, 2016).

²⁴ Florida House of Representatives, *House Bill 193 Staff Analysis*, (Feb. 22, 2017) at p. 7, Winter Springs Police, Notice of Right to Hearing Form, available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0193c.TIS.DOCX&DocumentType=Analysis&BillNumber=0193&Session=2017> (last visited April 10, 2017).

III. Effect of Proposed Changes:

The bill prohibit a county or municipality from imposing a fee on an authorized wrecker operator or a vehicle storage company for towing, storing, or impounding a vehicle. This prohibition does not affect the authority of a county or municipality to levy a local business tax.

The bill also prohibits a county or municipality from imposing a charge, cost, expense, fine, fee, or penalty, other than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner or lienholder of a vehicle removed and impounded by an authorized wrecker operator.

In addition, the bill provides that a county or municipality may impose a reasonable fee or charge for towing and storage expenses, not to exceed the maximum rates approved by ordinance or rule under ss. 125.0103 or 166.043, F.S., on the legal owner of a vehicle if a county or municipal law enforcement officer has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Art. VII, s. 18(b) of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2017-2018 is \$2 million or less.^{25,26,27}

The Revenue Estimating Conference has not estimated the fiscal impact of this bill. If the bill reduces the authority that counties and municipalities have to raise revenue by more than an insignificant amount, the mandates provision may apply and require a two-thirds vote of the membership in the Senate.

B. Public Records/Open Meetings Issues:

None.

²⁵ FLA. CONST. art. VII, s. 18(d).

²⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited April 5, 2017).

²⁷ Based on the Demographic Estimating Conference's population adopted on February 13, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited April 5, 2017).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not estimated the fiscal impact of this bill.

B. Private Sector Impact:

If counties and municipalities can no longer impose certain fees on vehicle owners, there is likely to be a positive benefit to certain citizens.

C. Government Sector Impact:

There is likely to be a negative fiscal impact on local governments, to the extent they are using fees connected to towing as a revenue source.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 323.002 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on April 13, 2017:

The committee substitute prohibits a county or municipality from imposing a fee on an authorized wrecker operator or a vehicle storage company for towing, storing, or impounding a vehicle. This prohibition does not affect the authority of a county or municipality to levy a local business tax.

CS by Community Affairs on March 22, 2017:

Provides that a county or municipality may not adopt or maintain an ordinance or rule that imposes a charge, cost, expense, fine, fee or penalty other than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner of a vehicle removed and impounded by an authorized wrecker operator. However,

a county or municipality may impose a reasonable fee or charge for towing and storage not to exceed maximum rates if the county or municipality has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

B. Amendments:

None.

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



184632

576-03802-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to towing and storage fees; creating ss. 125.01047 and 166.04465, F.S.; prohibiting counties and municipalities from enacting certain ordinances or rules to impose a fee or charge on wrecker operators or vehicle storage companies; providing exceptions; amending s. 323.002, F.S.; prohibiting counties and municipalities from imposing additional charges, costs, expenses, fines, fees, or penalties on a registered owner or lienholder of a vehicle; providing an exception; providing an effective date.

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

Section 1. Section 125.01047, Florida Statutes, is created to read:

125.01047 Rules and ordinances relating to towing or storage services.—

(1) A county may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator, as defined in s. 323.002(1), or a vehicle storage company for towing, storing, or impounding a vehicle by the wrecker operator or vehicle storage company.

(2) The prohibition set forth in subsection (1) does not affect a county's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s.



184632

576-03802-17

205.033, or s. 205.0535.

(b) Impose a reasonable fee or charge, not to exceed the maximum rates approved by ordinance or rule under s. 125.0103 or s. 166.043, on the legal owner of a vehicle if a county law enforcement officer has caused the owner's vehicle to be towed to and impounded at a facility owned by the county.

Section 2. Section 166.04465, Florida Statutes, is created to read:

166.04465 Rules and ordinances relating to towing or storage services.—

(1) A municipality may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator, as defined in s. 323.002(1), or a vehicle storage company for towing, storing, or impounding a vehicle by the wrecker operator or vehicle storage company.

(2) The prohibition set forth in subsection (1) does not affect a municipality's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s. 205.043, or s. 205.0535.

(b) Impose a reasonable fee or charge, not to exceed the maximum rates approved by ordinance or rule under s. 125.0103 or s. 166.043, on the legal owner of a vehicle if a municipal law enforcement officer has caused the owner's vehicle to be towed to and impounded at a facility owned by the municipality.

Section 3. Subsection (5) is added to section 323.002, Florida Statutes, to read:

323.002 County and municipal wrecker operator systems; penalties for operation outside of system.—

(5) (a) Except as provided in paragraph (b), a county or



184632

576-03802-17

57 municipality may not adopt or maintain in effect an ordinance or
58 rule that imposes a charge, cost, expense, fine, fee, or
59 penalty, other than the reasonable costs of towing and storage
60 incurred by an authorized wrecker operator, on the registered
61 owner or lienholder of a vehicle removed and impounded by an
62 authorized wrecker operator under this chapter.

63 (b) A county or municipality may impose a reasonable fee or
64 charge for towing and storage expenses, not to exceed the
65 maximum rates approved by ordinance or rule under s. 125.0103 or
66 s. 166.043, on the legal owner of a vehicle if a county or
67 municipal law enforcement officer has caused the owner's vehicle
68 to be towed to and impounded at a facility owned by the county
69 or municipality.

70 Section 4. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 282

INTRODUCER: Community Affairs Committee and Senator Steube

SUBJECT: Towing and Storage Fees

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Fav/CS
2.	Jones	Miller	TR	Favorable
3.	Gross	Diez-Arguelles	AFT	Recommend: Fav/CS
4.	Gross	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 282 prohibits a county or municipality from adopting or maintaining a rule or ordinance that imposes a charge, cost, expense, fine, fee, or penalty, other than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner of a vehicle removed and impounded by an authorized wrecker operator. However, a county or municipality may impose a reasonable fee or charge for towing and storage not to exceed maximum rates adopted by the county or municipality, if the county or municipality has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

The Revenue Estimating Conference has not estimated the fiscal impact of this bill.

The bill takes effect July 1, 2017.

II. Present Situation:

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.¹

¹ Section 323.002(1)(c), F.S.

After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods. Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”²

Unauthorized wrecker operators are not permitted to initiate contact with a wrecked or disabled vehicle.³ If the operator of a disabled vehicle initiates contact, an unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- His or her driver’s license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- Maximum rates for towing and storage.⁴

The unauthorized wrecker operator is also required to disclose this information in the presence of any law enforcement officer. It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.⁵ An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.⁶ Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.⁷

Counties are required to establish maximum rates for the towing and storage of vehicles removed from private property, removed from the scene of an accident, or where the vehicle is towed at the request of a law enforcement officer.⁸ Municipalities are also authorized to adopt maximum rate ordinances.⁹

Vehicle Holds and Wrecker Operator Storage Facilities

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator’s storage facility for up to 5 business days.¹⁰ A hold may be applied where the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or ch. 379, F.S.;
- Was used as the means of committing a crime;

² Section 323.002(1), F.S.

³ Section 323.002(2)(b), F.S.

⁴ Section 323.002(2)(c), F.S.

⁵ *Id.*

⁶ Section 323.002(2)(d), F.S.

⁷ Section 323.002(2)(a), F.S.

⁸ Section 125.0103(1)(c), F.S.

⁹ Section 166.043(1)(c), F.S.

¹⁰ Section 323.001(1), F.S.

- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.¹¹

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 or 322.34, F.S., and when the officer is complying with a court order.¹²

The hold must be in writing and include:

- The name and agency of the law enforcement officer placing the hold;
- The date and time the hold is placed on the vehicle;
- A general description of the vehicle;
- The specific reason for the hold;
- The condition of the vehicle;
- The location where the vehicle is being held; and
- The name and contact information for the wrecker operator and storage facility.¹³

The investigating agency must inform the wrecker operator within the 5-day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁴ The vehicle owner is liable for towing and storage charges for the first 5 days. If the vehicle is to be held beyond 5 days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.¹⁵

Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.¹⁶ However, local governments have authority to impose user fees or assessments by local ordinance, that authority is within the constitutional and statutory home rule powers of local governments.¹⁷ The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by other members of public.¹⁸ On the other hand, a tax is a "forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed."¹⁹ Usually a fee is applied for the use of a service. The fee rate is tied directly to the cost of maintaining the service. Money collected from a fee is generally not applied to uses other than to provide the service for which the fee is applied.

Administrative Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies. The City of Sarasota seizes the vehicle of those arrested for

¹¹ Section 323.001(4)(a)-(e), F.S.

¹² Section 323.001(4)(f)-(g), F.S.

¹³ Section 323.001(5), F.S.

¹⁴ Section 323.001(2), F.S.

¹⁵ Section 323.001(2)(a)-(b), F.S.

¹⁶ Art. VII, s. 1(a), Fla. Const.

¹⁷ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

¹⁸ *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So. 2d 756, 758 (Fla. 3rd DCA 2002).

¹⁹ *Id.* at 758-59 (citation omitted).

crimes related to drugs or prostitution.²⁰ The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500), hearing costs (\$50), and towing and storage fees (\$125 plus \$25 per day) to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees.
- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The same process and rate structure is employed by the City of Bradenton.²¹

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.²²

The City of Winter Springs imposes an administrative fee for impoundment arising from 12 offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.²³ The registered owner may request a hearing, accruing additional storage fees either pending the hearing or posting a bond equal to the amount of the administrative fee (\$550). If the registered owner waives the right to a hearing, the administrative fee is reduced to \$250. These fees are payable to the city but are collected by towing companies.²⁴

III. Effect of Proposed Changes:

The bill prohibits a county or municipality from adopting or maintaining an ordinance or rule that imposes a charge, cost, expense, fine, fee, or penalty, other than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner or lienholder of a vehicle removed and impounded by an authorized wrecker operator.

The bill allows a county or municipality to impose a reasonable fee or charge for towing and storage expenses, not to exceed the maximum rates approved by ordinance or rule under ss. 125.0103 or 166.043, F.S., on the legal owner of a vehicle if a county or municipal law

²⁰ Sarasota Police Department, *Vehicle Seizure Program*, available at <http://www.sarasotapd.org/vehicle-seizure-program/> (last visited Mar. 29, 2017).

²¹ Bradenton, FL Code of Ordinances, ch. 54, art. IV (2013).

²² Sweetwater, FL Code of Ordinances, ch. 42-1, s. 42.1(c) (2013).

²³ City of Winter Springs, Ordinance No. 2016-01 (effective October 23, 2016).

²⁴ Florida House of Representatives, *House Bill 193 Staff Analysis*, (Feb. 22, 2017) at p. 7, Winter Springs Police, Notice of Right to Hearing Form, available at <http://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?FileName=h0193c.TIS.DOCX&DocumentType=Analysis&BillNumber=0193&Session=2017> (last visited April 10, 2017).

enforcement officer has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Art. VII, S. 18(b) of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2017-2018 is \$2 million or less.^{25,26,27}

The Revenue Estimating Conference has not estimated the fiscal impact of this bill. If the bill reduces the authority that counties and municipalities have to raise revenue by more than an insignificant amount, the mandates provision may apply and require a two-thirds vote of the membership in the Senate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not estimated the fiscal impact of this bill.

B. Private Sector Impact:

If counties and municipalities can no longer impose certain fees on vehicle owners, there is likely to be a positive benefit to certain citizens.

²⁵ FLA. CONST. art. VII, s. 18(d).

²⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited April 5, 2017).

²⁷ Based on the Demographic Estimating Conference's population adopted on February 13, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited April 5, 2017).

C. **Government Sector Impact:**

There is likely to be a negative fiscal impact on local governments, to the extent they are using fees connected to towing as a revenue source.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 323.002 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

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

CS by Community Affairs on March 22, 2017:

Provides that a county or municipality may not adopt or maintain an ordinance or rule that imposes a charge, cost, expense, fine, fee or penalty other than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner of a vehicle removed and impounded by an authorized wrecker operator. However, a county or municipality may impose a reasonable fee or charge for towing and storage not to exceed maximum rates if the county or municipality has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

B. **Amendments:**

None.

By the Committee on Community Affairs; and Senator Steube

578-02733-17

2017282c1

A bill to be entitled

An act relating to towing and storage fees; amending
s. 323.002, F.S.; prohibiting counties and
municipalities from imposing additional charges,
costs, expenses, fines, fees, or penalties on a
registered owner or lienholder of a vehicle; providing
an exception; providing an effective date.

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

Section 1. Subsection (5) is added to section 323.002,
Florida Statutes, to read:

323.002 County and municipal wrecker operator systems;
penalties for operation outside of system.—

(5) (a) Except as provided in paragraph (b), a county or
municipality may not adopt or maintain in effect an ordinance or
rule that imposes a charge, cost, expense, fine, fee, or
penalty, other than the reasonable costs of towing and storage
incurred by an authorized wrecker operator, on the registered
owner or lienholder of a vehicle removed and impounded by an
authorized wrecker operator under this chapter.

(b) A county or municipality may impose a reasonable fee or
charge for towing and storage expenses, not to exceed the
maximum rates approved by ordinance or rule under s. 125.0103 or
s. 166.043, on the legal owner of a vehicle if a county or
municipal law enforcement officer has caused the owner's vehicle
to be towed to and impounded at a facility owned by the county
or municipality.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 476

INTRODUCER: Criminal Justice Committee and Senator Bean

SUBJECT: Terrorism and Terrorist Activities

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Hrdlicka	CJ	Fav/CS
2. Sanders	Ryon	MS	Favorable
3. McAuliffe	Sadberry	ACJ	Recommend: Favorable
4. McAuliffe	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 476 addresses terrorism by creating a crime of terrorism and by also creating crimes for:

- Receiving military-type training from a designated foreign terrorist organization and using that training to unlawfully harm another person or damage a critical infrastructure facility;
- Providing material support or resources to designated foreign terrorist organizations, including providing such support or materials to be used for carrying out specified crimes;
- Becoming a member of such terrorist organization and serving under its direction or control with the intent to further the organization's illegal acts; and
- Engaging in agroterrorism.

The Criminal Justice Impact Conference estimates that the bill will have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds).

II. Present Situation:

Florida Law on Terrorism

Florida does not have a crime of terrorism. Instead, Florida law defines the term "terrorism" and provides enhanced punishment for crimes that facilitated or furthered an act of terrorism.

Section 775.30(1), F.S., defines "terrorism" as an activity that:

- Involves a violent act or an act dangerous to human life which is a violation of criminal laws of this state or the United States or a violation of s. 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices; and
- Is intended to:
 - Intimidate, injure, or coerce a civilian population;
 - Influence the policy of a government by intimidation or coercion; or
 - Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Section 775.31, F.S., provides that if a person is convicted of committing a felony or misdemeanor that facilitated or furthered any act of terrorism,¹ the court shall reclassify the felony or misdemeanor to the next higher degree as provided in this section. The reclassification is made in the following manner:

- In the case of a misdemeanor of the second degree, the offense is reclassified as a first degree misdemeanor.
- In the case of a first degree misdemeanor, the offense is reclassified as a third degree felony.
- In the case of a third degree felony, the offense is reclassified as a second degree felony.
- In the case of a second degree felony, the offense is reclassified as a first degree felony.
- In the case of a first degree felony or a first degree felony punishable by a term of imprisonment not exceeding life, the offense is reclassified as a life felony.

Reclassification of the degree of an offense has the effect of increasing the maximum sentence that a judge may impose for the offense. The maximum sentence for:

- A second degree misdemeanor is 60 days in jail and a \$500 fine;
- A first degree misdemeanor is 1 year in jail and a \$1,000 fine;
- A third degree felony is 5 years in state prison and a \$5,000 fine;
- A second degree felony is 15 years in state prison and a \$10,000 fine;
- A first degree felony is generally 30 years in state prison and a \$10,000 fine; and
- A life felony is generally a term of imprisonment for life or imprisonment for a term of years not exceeding life imprisonment and a \$15,000 fine.²

Additionally, felony reclassification may impact the scored lowest permissible sentence under the Criminal Punishment Code (Code). For example, a primary offense that is a second degree felony would typically score more sentence points than a primary offense that is a third degree felony.

For purposes of sentencing under the Code, the following offense severity ranking levels apply:

- An offense that is a first degree misdemeanor and that is reclassified as a third degree felony degree is ranked in Level 2 of s. 921.0022, the Code offense severity ranking chart.
- A felony offense that is reclassified is ranked one level above the ranking specified in s. 921.0022, F.S., or s. 921.0023, F.S., (providing an assigned level ranking for offenses not ranked in the Code offense severity ranking chart).

¹ The definition of “terrorism” in s. 775.31, F.S., is identical to the definition of that term in s. 775.30, F.S.

² Sections 775.082 and 775.083, F.S.

Federal Laws on Terrorism

Pursuant to 18 U.S.C. Section 2339A, it is unlawful to provide material support or resources or conceal or disguise the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, any listed violation of federal law or in preparation for, or in carrying out, the concealment of an escape from the commission of any such violation, or attempts or conspires to do such an act.

For purposes of this section, the following definitions of terms are provided:

- “Material support or resources” means “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials”;
- “Training” means “instruction or teaching designed to impart a specific skill, as opposed to general knowledge”; and
- “Expert advice or assistance” means “advice or assistance derived from scientific, technical or other specialized knowledge.”

Pursuant to 18 U.S.C. Section 2339B, it is unlawful to provide material support or resources to a foreign terrorist organization, or attempt or conspire to do so. To commit this violation, a person must have knowledge that the organization:

- Is a designated terrorist organization;
- Has engaged or engages in terrorist activity as defined in Section 212(a)(3)(B) of the Immigration and Nationality Act (INA);³ or
- Has engaged or engages in terrorism as defined in Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.⁴

The terms “material support or resources,” “training,” and “expert advice or assistance” have the same meaning as provided in Section 2339A. The term “terrorist organization” means an organization designated as a terrorist organization under Section 219 of the INA.⁵ Section 219 of the INA authorizes the Secretary of State, in consultation with the Secretary of the Treasury and

³ 8 U.S.C. Section 1182. Section 212(a)(3)(B)(iii) of the INA (11 U.S.C. Section 1182(a)(3)(B)(iii)) defines “terrorist activity” as any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any state) and which involves any of the following: (1) hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle); (2) seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained; (3) a violent attack upon an internationally protected person or upon the liberty of such a person; (4) an assassination; (5) the use of any biological agent, chemical agent, nuclear weapon or device, explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property; or (6) a threat, attempt, or conspiracy to do any of the previously describe acts.

⁴ Public Law 100-204 (1987), available at <https://www.govtrack.us/congress/bills/100/hr1777/text/enr> (last visited on April 13, 2017).

⁵ 8 U.S.C. Section 1189.

the Attorney General, to designate an organization as a foreign terrorist organization, in accordance with a process specified in that section, if the Secretary finds: (1) the organization is a foreign organization; (2) the organization engages in terrorist activity; and (3) the terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.

A person may not be prosecuted under 18 U.S.C. Section 2339B in connection with the term:

- “Personnel” unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself or herself) to work under that terrorist organization’s direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives are not considered to be working under the foreign terrorist organization’s direction and control; or
- “Personnel,” “training,” or “expert advice or assistance” if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General.⁶

Pursuant to 18 U.S.C. Section 2339D, it is unlawful to knowingly receive military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under Section 219 of the INA as a foreign terrorist organization. To commit this violation, a person must have knowledge that the organization:

- Is a designated terrorist organization as defined in Section 219 of the INA;
- Has engaged or engages in terrorist activity as defined in Section 212 of the INA; or
- Has engaged or engages in terrorism as defined in Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

Section 2339D provides that “military-type training” includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm, or other weapon, including any weapon of mass destruction. The term “foreign terrorist organization” has the same meaning as the term “terrorist organization” in 18 U.S.C. Section 2339B.

Felony Murder

Section 782.04(1)(a)2., F.S., provides that it is first degree murder, a capital felony,⁷ to unlawfully kill a human being when the killing is committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any of the listed offenses. One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.⁸ Section 782.04(3), F.S., provides that when a person is killed in the perpetration of, or in the attempt to perpetrate, any listed offense, by a person other than the person engaged in the

⁶ The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity as defined in Section 212(a)(3)(B)(iii) of the INA.

⁷ A capital felony is generally punishable by life imprisonment or a death sentence. Sections 775.082 and 921.141, F.S.

⁸ Section 782.04(1)(a)2.r., F.S.

perpetration of, or in the attempt to perpetrate, such offense, the person perpetrating or attempting to perpetrate such felony commits second degree murder, a first degree felony punishable by life imprisonment or by up to 30 years imprisonment.⁹ One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.¹⁰

Section 782.04(4), F.S., provides that the unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than a listed offense is third degree murder, a second degree felony punishable by up to 15 years imprisonment.¹¹ One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.¹²

III. Effect of Proposed Changes:

The bill, which takes effect October 1, 2017, addresses terrorism by creating a crime of terrorism and by also creating crimes for:

- Receiving military-type training from a designated foreign terrorist organization and using that training to unlawfully harm another person or damage a critical infrastructure facility;
- Providing material support or resources to designated foreign terrorist organizations, including providing such support or materials to be used for carrying out specified crimes;
- Becoming a member of such terrorist organization and serving under its direction or control with the intent to further the organization's illegal acts; and
- Engaging in agroterrorism.

The material support offenses and military-type training offense are patterned after federal terrorism statutes.

Crime of Terrorism (Section 1)

Section 1 amends s. 775.30, F.S., to define the term “terrorism” to create a crime of terrorism. A person who violates any listed statute or statutory provision in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a first degree felony. However, it is a life felony if this violation results in death or serious bodily injury.¹³

The listed statutes or statutory provisions are:

- Section 782.04(1)(a)1. or (2), F.S., which, respectively, punish first degree murder (premeditated design) and first degree murder (felony murder);
- Section 782.065, F.S., which punishes murder of a law enforcement officer;
- Section 782.07(1), F.S., which punishes manslaughter;
- Section 782.09, F.S., which punishes the killing of an unborn child by injury to the mother;

⁹ Section 775.082, F.S.

¹⁰ Section 782.04(3)(r), F.S.

¹¹ Section 775.082, F.S.

¹² Section 782.04(4)(s), F.S.

¹³ The bill defines “serious bodily injury” as an injury to a person that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or an organ. The term “serious bodily injury” has this same meaning when it is used in connection with other crimes created by the bill.

- Section 784.045, F.S., which punishes aggravated battery;
- Section 784.07, F.S., which punishes assault or battery on a law enforcement officer or other specified persons;
- Section 787.01, F.S., which punishes kidnapping;
- Section 787.02, F.S., which punishes false imprisonment;
- Section 787.07, F.S., which punishes human smuggling;
- Section 790.115, F.S., which punishes possessing or discharging a weapon or firearm at a school-sponsored event or on school property;
- Section 790.15, F.S., which punishes discharging a firearm in public or on residential property;
- Section 790.16, F.S., which punishes discharging a machine gun;
- Section 790.161, F.S., which punishes making, possessing, throwing, projecting, placing, or discharging a destructive device;
- Section 790.1615, F.S., which punishes throwing, projecting, placing, or discharging a destructive device or bomb resulting in injury to another;
- Section 790.162, F.S., which punishes threatening to throw, project, place, or discharge any destructive device;
- Section 790.166, F.S., which punishes manufacturing, possessing, selling, delivering, displaying, using, or attempting or threatening to use a weapon of mass destruction or a hoax weapon of mass destruction;
- Section 790.19, F.S., which punishes shooting or throwing a deadly missile into dwellings, public or private buildings, or designated vehicle;
- Section 806.01, F.S., which punishes arson;
- Section 806.031, F.S., which punishes arson resulting in injury to another person;
- Section 806.111, F.S., which punishes possessing, manufacturing, transporting, or disposing fire bombs;
- Section 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices;
- Section 815.061, F.S., which punishes unlawful acts against public utilities;
- Section 859.01, F.S., which punishes poisoning food or water; and
- Section 876.34, F.S., which punishes combinations by force to usurp or overturn state government or forcibly interfere in government administration.

Unlawful Use of Military-Type Training from a Designated Foreign Terrorist Organization (Section 3)

Section 3 creates s. 775.32, F.S., to provide that a person commits a second degree felony if he or she receives military-type training from a designated foreign terrorist organization and uses, attempts to use, or conspires to use such training with the intent to unlawfully harm another person or damage critical infrastructure facilities.¹⁴ However, it is a first degree felony if this violation results in death or serious bodily injury.

¹⁴ “Critical infrastructure facility” is defined by reference to the definition of that term in s. 493.631, F.S. Section 493.631(1), F.S., defines a “critical infrastructure facility as any of the following if the facility employs measures such as fences, barriers, or guard posts that are designed to exclude unauthorized persons: (1) a chemical manufacturing facility; (2) a refinery; (3) an electrical power plant, including a substation, switching station, electrical control center, or electric transmission or distribution facility; (4) a water intake structure, water treatment facility, wastewater treatment plant, or pump station; (5) a

“Military-type training” means training in means or methods that can cause the death of, or serious bodily injury to, another person, destroy or damage property or critical infrastructure facilities, or disrupt services to critical infrastructure; or training on the use, storage, production, or assembly of an explosive, a firearm, or any other weapon, including a weapon of mass destruction.¹⁵

“Designated foreign terrorist organization” means an organization designated as a terrorist organization under Section 219 of the INA.¹⁶

Providing Material Support or Resources for Terrorism or to a Designated Foreign Terrorist Organization (Section 4)

Section 4 creates s. 775.33, F.S., to include two crimes relating to providing material support to foreign terrorist organizations. Subsection (2) is patterned after 18 U.S.C. Section 2339A. Subsection (2) provides that it is a first degree felony for a person to provide material support or resources or conceal or disguise the nature, location, source, or ownership of material support or resources, knowing or intending that the support or resources are to be used in preparation for or in carrying out a violation of any of the following listed statutes or statutory provisions:

- Section 775.30, F.S. (created by the bill), which includes the new crime of terrorism;
- Section 775.32, F.S. (created by the bill), which includes the new crime of unlawful use of military-type training from a designated foreign terrorist organization;
- Section 775.34, F.S. (created by the bill), which includes the new crime of membership in a designated foreign terrorist organization (discussed below);
- Section 775.35, F.S., which includes the new crime of agroterrorism (discussed below);
- Section 790.16, F.S., which punishes discharging a machine gun;
- Section 790.161(2), (3), or (4), F.S., which punishes making, possessing, throwing, projecting, placing, or discharging a destructive device if the act was perpetrated with the intent to do bodily harm, damage property, or disrupt governmental operations, commerce, or a person’s private affairs, or resulted in bodily harm or death;
- Section 790.166, F.S., which punishes manufacturing, possessing, selling, delivering, displaying, using, or attempting or threatening to use a weapon of mass destruction or a hoax weapon of mass destruction;
- Section 790.19, F.S., which punishes shooting or throwing a deadly missile into dwellings, public or private buildings, or designated vehicles;

natural gas transmission compressor station; (6) a liquid natural gas terminal or storage facility; (7) a telecommunications central switching office; (8) a deepwater port or railroad switching yard; or (9) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.

¹⁵ “Weapons of mass destruction” is defined by reference to the definition of that term in s. 790.166, F.S. Section 790.166(1)(a), F.S., defines a “weapons of mass destruction” as any of the following: (1) any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors; (2) any device or object involving a biological agent; or (3) any device or object that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life; or (4) any biological agent, toxin, vector, or delivery system. Section 790.166(8)(a), F.S., specifies authorized exceptions for possession or use.

¹⁶ The term “designated foreign terrorist organization” has this same meaning when it is used in connection with other crimes created by the bill.

- Section 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices;
- Section 859.01, F.S., which punishes poisoning food or water;
- Section 860.121, F.S., which punishes shooting at, throwing any object capable of causing death or great bodily harm at, or placing any object capable of causing death or great bodily harm in the path of any railroad train or other railroad vehicle;
- Section 860.16, F.S., which punishes aircraft piracy;
- Section 876.32, F.S., which punishes treason;
- Section 876.34, F.S., which punishes combinations by force to usurp or overturn state government or forcibly interfere in government administration; or
- Section 876.36, F.S., which punishes inciting insurrection.

Subsection (2) also provides that it is a first degree felony to conceal an escape from the commission of any of the above-described violations or to attempt or conspire to carry out any such violation.

For purposes of s. 775.33, F.S., “material support or resources” means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training,¹⁷ expert advice or assistance,¹⁸ safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, or transportation. The term does not include medicine or religious materials.

Subsection (3) is patterned after 18 U.S.C. Section 2339B. Subsection (3) provides that it is a first degree felony to knowingly provide material support or resources to a designated foreign terrorist organization, or to attempt or conspire to do so. To commit this offense, a person must have knowledge that the organization is a designated foreign terrorist organization or that the organization has engaged in or engages in terrorism or terrorist activity.

If a violation of s. 775.33(2) or (3), F.S., results in death or serious bodily injury, the violation is enhanced to a life felony.

For purposes of prosecuting a violation of s. 775.33(2) or (3), F.S., a person is deemed to provide material support or resources by providing personnel if the person knowingly provides, attempts to provide, or conspires to provide himself or herself or another person:

- To a person engaged in, or intending to engage in, an act of terrorism to work under the direction and control of the person engaged in, or intending to engage in, an act of terrorism, or to organize, manage, supervise, or otherwise direct the operations of the person engaged in, or intending to engage in, an act of terrorism; or
- To work under the direction and control of a designated foreign terrorist organization, or to organize, manage, supervise, or otherwise direct the operation of that organization.¹⁹

¹⁷ “Training” means instruction or teaching designed to impart a specific skill rather than general knowledge.

¹⁸ “Expert advice or assistance” means advice or assistance derived from scientific, technical, or other specialized knowledge.

¹⁹ A notable difference between the bill and federal law is that the prosecution language in the bill applies to s. 775.33(2), F.S., which is patterned after 18 U.S.C. Section 2339B, and to s. 775.33(3), F.S., which is patterned after 18 U.S.C. section 2339B. In contrast, the prosecution language in 18 U.S.C. Section 2339B only applies to that section. Another notable

Section 775.33, F.S., also:

- Specifies that an individual who acts entirely independently of the person engaged in, or intending to engage in, an act of terrorism or the designated foreign terrorist organization to advance the person's or organization's goals or objectives is not working under the direction and control of the person engaged in, or intending to engage in, an act of terrorism or the designated foreign terrorist organization;
- Prohibits prosecuting a person under s. 775.33, F.S., if his or her activity was authorized by a governmental or law enforcement agency of this state or of the United States in the agency's official capacity and pursuant to a lawful purpose;
- Provides that it is the intent of the Legislature that a violation of s. 775.33(2) or (3), F.S., be interpreted in a manner consistent with federal case law interpreting 18 U.S.C. Sections 2339A and 2339B;²⁰ and
- Requires the Florida Department of Law Enforcement,²¹ in consultation with the Office of the Attorney General, to create guidelines for law enforcement investigations conducted pursuant to this section to ensure the protection of privacy rights, civil rights, and civil liberties.

Membership in a Designated Foreign Terrorist Organization (Section 5)

Section 5 creates s. 775.34, F.S., to provide that it is a second degree felony to willfully become a member of a designated foreign terrorist organization and serve under the direction or control of that organization *with the intent to further the illegal acts of the organization*. As provided in the bill, membership alone does not constitute a crime.

Agroterrorism (Section 6)

Section 6 creates s. 775.35, F.S., to provide that it is a second degree felony for a person to intentionally disseminate or spread any type of contagious, communicable, or infectious disease among crops, poultry, livestock, or other animals. However, it is a life felony if this violation results in death or serious bodily injury.

It is an affirmative defense to this violation if the activity is consistent with a medically recognized procedure or if the activity is done in the course of legitimate, professional scientific research.

difference between the bill and federal law is that the prosecution language in the bill covers a person who provides himself or herself or another person to a person engaged in, or intending to engage in, an act of terrorism. The prosecution language in 18 U.S.C. Section 2339B does not cover such person.

²⁰ Section 775.33, F.S., does not contain a provision similar to 18 U.S.C. Section 2339B(i), which provides that nothing in 18 U.S.C. Section 2339B shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment. However, interpretation of s. 775.33(2) and (3), F.S., would presumably be consistent with this rule of construction of s. 775.33(2) or (3), F.S., because of legislative intent to interpret these subsections in a manner consistent with federal case law interpreting 18 U.S.C. Sections 2339A and 2339B.

²¹ The Florida Department of Law Enforcement (FDLE) coordinates and directs counterterrorism efforts for Florida. FDLE's Commissioner serves as incident commander for the state in the event of a terrorist incident, and the Special Agent in Charge of FDLE's Office of Statewide Investigative Services serves as Florida's Homeland Security Advisor. *Long-Range Program Plan FY 17-18 through 21-22* (September 30, 2016), p. 16, Florida Department of Law Enforcement, available at <http://floridafiscalportal.state.fl.us/Publications.aspx?AgyID=7100> (last visited on April 13, 2017).

The elements of the new agroterrorism crime and affirmative defense are identical to Missouri's agroterrorism crime and affirmative defense.²²

Felony Murder (Section 7)

Section 7 amends the felony murder provisions of s. 782.04, F.S. Currently these provisions reference a felony that is an act of terrorism or is in furtherance of an act of terrorism as a predicate offense. The bill includes specific reference to a felony under s. 775.30, F.S., s. 775.32, F.S., s. 775.33, F.S. s. 775.34, F.S., or s. 775.35, F.S. These sections include the new crime of terrorism and new terrorism-related crimes created by the bill.

“Terroristic Activity” and Felony Degree Reclassification of Offenses Facilitating Terrorism (Sections 1 and 2)

Section 1 also amends the definition of “terrorism” in s. 775.30, F.S., to provide that the definition of this term also covers the term “terroristic activity.”

Section 2 amends s. 775.31, F.S., to specify that, as used in that section, the term “terrorism” has the same meaning as provided in s. 775.30(1), F.S. The bill also specifies that reclassification of offenses under s. 775.31, F.S., does not apply to s. 775.30, F.S., s. 775.32, F.S., s. 775.33, F.S., s. 775.34, F.S., or s. 775.35, F.S. These sections include the new crime of terrorism and new terrorism-related crimes created by the bill.

Reenactments (Sections 8-33)

Sections 8-33 of the bill reenact, ss. 373.6055, 381.95, 395.1056, 874.03, 907.041, 943.0312, 943.0321, 27.401, 39.806, 63.089, 95.11, 435.04, 435.07, 775.082, 775.0823, 782.051, 782.065, 903.133, 921.0022, 921.16, 947.146, 948.06, 948.062, 985.265, 1012.315, 1012.467, F.S., respectively for the purpose of incorporating amendments to ss. 775.30 and 782.04, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²² MO Rev. Stat. section 574.130 (2016).

D. Other Constitutional Issues:

Most constitutional challenges to federal terrorism statutes appear to be directed at 18 U.S.C. Section 2339B²³ and involve First Amendment challenges to that statute (freedom of speech and association). One reason for the focus on this statute may be that “[u]nder Section 2339B, a person just has to attempt, conspire, or actually provide support to a *terrorist organization*, while under Section 2339A a person has to attempt, conspire, or actually provide support to a specific *terroristic act*.”²⁴

The leading case involving First Amendment challenges to 18 U.S.C. Section 2339B is *Holder v. Humanitarian Project*.²⁵ In this case, the U.S. Supreme Court considered a pre-enforcement challenge to the statute. The plaintiffs claimed that they wished to provide support for the humanitarian activities and political activities of two designated foreign terrorist organizations (FTOs) but could not do so for fear of prosecution under 18 U.S.C. Section 2339B. This support was to consist of monetary contributions, other tangible aid, legal training, and political advocacy. The plaintiffs claimed that the statute was unconstitutionally vague and violated their freedom of speech and association under the First Amendment because it criminalized their material support to the FTOs without requiring the government to prove the plaintiffs specifically intended to further illegal activities of the FTOs.

Before addressing the Plaintiffs’ vagueness, free speech, and free association claims, the U.S. Supreme Court considered and rejected the plaintiffs’ contention that the Court should interpret the statute, when applied to speech, to require proof that a defendant intended to further illegal activities of a FTO. The Court found that the text of the statute did not support this interpretation and that a case on which the plaintiffs had heavily relied for support, *Scales v. United States*,²⁶ did not apply to 18 U.S.C. Section 2339B: “Section 2339B does not criminalize mere membership in a designated foreign terrorist organization. It instead prohibits ‘material support’ to such a group.”²⁷ In *Scales*, the Court held that a person could not be convicted under a federal law which prohibited membership in a group advocating the violent overthrow of the government, unless the person had knowledge of the group’s illegal advocacy and a specific intent to violently overthrow the government.

The Court limited its analysis of the vagueness claim to addressing “whether the statute ‘provide[s] a person of ordinary intelligence fair notice of what is prohibited’”²⁸ The Court determined that the statute did provide fair notice to the plaintiffs. While acknowledging that the statute might not be clear in every application, the Court found that the statutory terms clearly applied to the plaintiffs’ proposed conduct. The Court’s

²³ As previously noted, s. 775.33, F.S., which is created by the bill, is patterned after this statute.

²⁴ Tuley, Aaron. “*Holder v. Humanitarian Law Project*: Redefining Free Speech Protection In The War On Terror,” Vol. 49:579, No. 2 (2016), at p. 584 (footnotes omitted), *Indiana Law Review*, available at <https://journals.iupui.edu/index.php/inlawrev/article/view/21003> (last visited on April 13, 2017).

²⁵ 561 U.S. 1 (2010).

²⁶ 376 U.S. 203 (1961).

²⁷ *Holder*, 561 U.S. at 18.

²⁸ *Holder*, 561 U.S. at 20, quoting *United States v. Williams*, 553 U.S. 285, 304 (2008).

findings that the terms “personnel” and “service” do not cover “independent advocacy” were important to its later analysis of the free speech claim.

Before addressing the free speech and association claims, the Court rejected the position of the plaintiffs that Congress had banned their political speech, finding that the statute does not prohibit communication on any topic or membership in a FTO. Instead, the statute prohibits providing material support. The court found that most often material support does not involve speech but when it does “the statute is carefully drawn to cover only a narrow category of speech to, under the direction of, or in coordination with foreign groups that the speaker knows to be terrorist organizations.”²⁹ The Court also rejected the government’s position that the only issue in the case was conduct, not speech. The Court found that the plaintiffs’ conduct “triggering coverage under the statute consists of communicating a message.”³⁰ Therefore, the question was whether the government could prohibit the plaintiffs from providing material support to the FTOs “in the form of speech.”³¹ The Court determined that the government could because it found a compelling governmental interest (national security) and Congress had taken action to address potential constitutional concerns.

In reaching this determination, the Court relied, in part, on a finding by Congress that FTOs were “so tainted by their criminal conduct” that any contribution to a FTO would further that conduct.³² The Court also relied on statements from a State Department official supporting this finding. The Court also found it “significant that Congress has been conscious of its own responsibility to consider how its actions may implicate constitutional concerns”: applying the statute only to FTOs; narrowing definitions and explaining knowledge required under the statute; indicating its intent not to abridge the First Amendment; creating limited exceptions to the material support ban (e.g., medicine and religious materials); and, most importantly, avoiding “any restriction on independent advocacy, or indeed any activities not directed to, coordinated with, or controlled by” FTOs.³³

Finally, the Court disposed of the plaintiffs’ free association claim. The Court found that the federal Ninth Circuit Court of Appeals had correctly rejected this claim because the statute does not penalize mere association with a FTO. Further, the Court found that any burden on the plaintiffs’ freedom of association in regard to providing material support to the FTOs was justified for the same reasons the Court denied the plaintiffs’ free speech challenge.

²⁹ *Holder*, 561 U.S. at 26 (footnote omitted).

³⁰ *Holder*, 561 U.S. at 28.

³¹ *Id.*

³² *Holder*, 561 U.S. at 29, quoting s. 301(a)(7) of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104-132 (1996), available at <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-8598.html#0-0-0-903> (last visited on April 13, 2017).

³³ *Holder*, 561 U.S. at 36.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), estimated that the original bill will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds).³⁴ The nominal changes to the original bill should not change that estimate.

Per the Department of Corrections, in FY 2015-2016, there were 2,603 prison admissions for the offenses specified for those that could be considered terrorism, given the intent described under the amended s. 775.30, F.S. The same number of admissions exist when the additional offenses are included under s. 775.33, F.S. It is not known how many of these offenses included the intent defined in this bill.

Per the FDLE, there were 12 arrests since 2011 under s. 775.31, F.S., for felonies facilitating or furthering terrorism. Few of these had a court record, but those that did were recorded as dismissed.

The FDLE is required to create certain guidelines, in consultation with the Attorney General, under the bill (Section 4); however, the FDLE reports that the bill will have no fiscal impact.³⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill creates new second degree felonies, first degree felonies, and life felonies. Because the bill does not specifically rank the new offenses in s. 921.0022, F.S., the Code offense severity ranking chart, they are assigned the following ranking pursuant to s. 921.0023, F.S.:

- A second degree felony is ranked in level 4;
- A first degree felony is ranked in level 7; and
- A life felony is ranked in level 10.

³⁴ Impact information was provided by staff of the Office of Economic and Demographic Research on March 6, 2017, via e-mail (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security). All information in this section of the analysis is from this source.

³⁵ 2017 FDLE Legislative Bill Analysis (SB 476) (February 1, 2017) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

Generally, a first-time offender with a Level 4 offense will not score a lowest permissible sentence of state prison but the court still has the discretion to impose a state prison sentence up to the statutory maximum in s. 775.082, F.S.³⁶ However, if the victim died or was severely injured as a result of the offense, this offender will score a lowest permissible sentence of state prison.³⁷ A first-time offender with a Level 7 or Level 10 offense will score a lowest permissible sentence of state prison, regardless of victim injury.³⁸

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.30, 775.31, and 782.04.

This bill creates the following sections of the Florida Statutes: 775.32, 775.33, 775.34, and 775.35.

This bill reenacts sections 27.401, 39.806, 63.089, 95.11, 373.6055, 381.95, 395.1056, 435.04, 435.07, 775.082, 775.0823, 782.051, 782.065, 874.03, 903.133, 907.041, 921.0022, 921.16, 943.0312, 943.0321, 947.146, 948.06, 948.062, 985.265, 1012.315, and 1012.467, Florida Statutes, for the purpose of incorporating amendments to sections 775.30 and 782.04, Florida Statutes

IX. Additional Information:

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

CS by Criminal Justice on April 3, 2017:

The committee substitute:

- Revises the elements of the crime of terrorism to provide that a person commits this crime by violating any listed statute or statutory provision in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping.
- Revises the elements of the crime of unlawful use of military-type training from a designated foreign terrorist organization to provide that a person commits this crime if he or she receives military-type training from a designated foreign terrorist organization and uses, attempts to use, or conspires to use such training with the intent to *unlawfully* harm another person or damage critical infrastructure facilities.

- B. Amendments:

None.

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

³⁶ Section 921.0024, F.S.

³⁷ *Id.*

³⁸ *Id.*

By the Committee on Criminal Justice; and Senator Bean

591-03326-17

2017476c1

1 A bill to be entitled
 2 An act relating to terrorism and terrorist activities;
 3 amending s. 775.30, F.S.; extending the applicability
 4 of the definition of the term "terrorism" to other
 5 sections of ch. 775, F.S.; defining the term
 6 "terrorist activity"; providing that a violation of
 7 specified criminal provisions in furtherance of
 8 certain objectives is a crime of terrorism; providing
 9 penalties; providing increased penalties if the action
 10 results in death or serious bodily injury; defining
 11 the term "serious bodily injury"; amending s. 775.31,
 12 F.S.; redefining the term "terrorism"; providing
 13 applicability; creating s. 775.32, F.S.; defining
 14 terms; prohibiting a person from using, attempting to
 15 use, or conspiring to use military-type training
 16 received from a designated foreign terrorist
 17 organization for certain purposes; providing
 18 penalties; providing increased penalties if the
 19 actions result in death or serious bodily injury;
 20 creating s. 775.33, F.S.; defining terms; prohibiting
 21 a person from providing material support or resources,
 22 or engaging in other specified actions, to violate
 23 specified criminal provisions; providing penalties;
 24 prohibiting a person from attempting to provide,
 25 conspiring to provide, or knowingly providing material
 26 support or resources to a designated foreign terrorist
 27 organization; providing penalties; providing increased
 28 penalties if specified actions result in death or
 29 serious bodily injury; specifying the circumstances

Page 1 of 68

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591-03326-17

2017476c1

30 under which a person provides material support by
 31 providing personnel; prohibiting prosecution under
 32 certain circumstances; providing legislative intent;
 33 requiring the Department of Law Enforcement, in
 34 consultation with the Office of the Attorney General,
 35 to create specified guidelines; creating s. 775.34,
 36 F.S.; providing penalties for a person who willfully
 37 becomes a member of a designated foreign terrorist
 38 organization and serves under the direction or control
 39 of the organization with the intent to further the
 40 illegal acts of the organization; defining the term
 41 "designated foreign terrorist organization"; creating
 42 s. 775.35, F.S.; providing penalties for a person who
 43 intentionally disseminates or spreads any type of
 44 contagious, communicable, or infectious disease among
 45 crops, poultry, livestock, or other animals; providing
 46 an affirmative defense; providing increased penalties
 47 if specified actions result in death or serious bodily
 48 injury; defining the term "serious bodily injury";
 49 amending s. 782.04, F.S.; revising the provisions
 50 related to terrorism for murder in the first degree,
 51 murder in the second degree, and murder in the third
 52 degree to include the terrorism felonies created by
 53 this act; reenacting ss. 373.6055(3)(c), 381.95(1),
 54 395.1056(1)(a) and (2), 874.03(7), 907.041(4)(a),
 55 943.0312(2), and 943.0321(2), F.S., relating to the
 56 definition of the term "terrorism," to incorporate the
 57 amendment made to s. 775.30, F.S., in references
 58 thereto; reenacting ss. 27.401(2), 39.806(1)(d),

Page 2 of 68

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591-03326-17

2017476c1

59 63.089(4)(b), 95.11(10), 435.04(2)(e), 435.07(4)(c),
 60 775.082(1)(b) and (3)(a), (b), and (c), 775.0823(1),
 61 (2), (4), (5), (6), and (7), 782.051, 782.065,
 62 903.133, 921.0022(3)(h) and (i), 921.16(1),
 63 947.146(3)(i), 948.06(8)(c), 948.062(1),
 64 985.265(3)(b), and 1012.315(1)(d), F.S., relating to
 65 capital felonies, murder in the first degree, murder
 66 in the second degree, and murder in the third degree,
 67 to incorporate the amendment made to s. 782.04, F.S.,
 68 in references thereto; reenacting s. 1012.467(2)(g),
 69 F.S., relating to terrorism and murder, to incorporate
 70 the amendments made to ss. 775.30 and 782.04, F.S., in
 71 references thereto; providing an effective date.

73 WHEREAS, the domestic security of the State of Florida and
 74 terrorism prevention within the state's borders are of paramount
 75 importance, and

76 WHEREAS, the threats to the domestic security of the State
 77 of Florida are constantly evolving and expanding, and

78 WHEREAS, it is incumbent upon officials of the State of
 79 Florida to prevent future acts of terrorism and to bring to
 80 justice those who attempt, solicit, support, commit, or conspire
 81 to commit acts of terrorism, and

82 WHEREAS, law enforcement officials in the State of Florida
 83 require adequate and appropriate authority to investigate and
 84 prevent potential acts of terrorism or acts of mass catastrophe
 85 in the state, and

86 WHEREAS, the constitutional rights of the residents of and
 87 visitors to the State of Florida are also of great importance,

591-03326-17

2017476c1

88 and those rights can be safeguarded through reasonable
 89 protections in appropriate law enforcement actions, NOW,
 90 THEREFORE,

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

94 Section 1. Section 775.30, Florida Statutes, is amended to
 95 read:

96 775.30 Terrorism; defined; penalties.—

97 (1) As used in this chapter and the Florida Criminal Code,
 98 the term "terrorism" or "terrorist activity" means an activity
 99 that:

100 ~~(1)~~ (a) Involves a violent act or an act dangerous to human
 101 life which is a violation of the criminal laws of this state or
 102 of the United States; or

103 (b) Involves a violation of s. 815.06; and

104 (c) ~~(2)~~ Is intended to:

105 1. ~~(a)~~ Intimidate, injure, or coerce a civilian population;

106 2. ~~(b)~~ Influence the policy of a government by intimidation
 107 or coercion; or

108 3. ~~(e)~~ Affect the conduct of government through destruction
 109 of property, assassination, murder, kidnapping, or aircraft
 110 piracy.

111 (2) A person who violates s. 782.04(1)(a)1. or (2), s.
 112 782.065, s. 782.07(1), s. 782.09, s. 784.045, s. 784.07, s.
 113 787.01, s. 787.02, s. 787.07, s. 790.115, s. 790.15, s. 790.16,
 114 s. 790.161, s. 790.1615, s. 790.162, s. 790.166, s. 790.19, s.
 115 806.01, s. 806.031, s. 806.111, s. 815.06, s. 815.061, s.
 116 859.01, or s. 876.34, in furtherance of intimidating or coercing

591-03326-17

2017476c1

the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who commits a violation of subsection (2) which results in death or serious bodily injury commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "serious bodily injury" means an injury to a person which creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or an organ.

Section 2. Section 775.31, Florida Statutes, is amended to read:

775.31 Facilitating or furthering terrorism; felony or misdemeanor reclassification.—

(1) If a person is convicted of committing a felony or misdemeanor that facilitated or furthered any act of terrorism, the court shall reclassify the felony or misdemeanor to the next higher degree as provided in this section. The reclassification shall be made in the following manner:

(a) In the case of a misdemeanor of the second degree, the offense is reclassified as a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified as a felony of the third degree.

(c) In the case of a felony of the third degree, the offense is reclassified as a felony of the second degree.

(d) In the case of a felony of the second degree, the

591-03326-17

2017476c1

offense is reclassified as a felony of the first degree.

(e) In the case of a felony of the first degree or a felony of the first degree punishable by a term of imprisonment not exceeding life, the offense is reclassified as a life felony.

(2) For purposes of sentencing under chapter 921, the following offense severity ranking levels apply:

(a) An offense that is a misdemeanor of the first degree and that is reclassified under this section as a felony of the third degree is ranked in level 2 of the offense severity ranking chart.

(b) A felony offense that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed.

(3) As used in this section, the term "terrorism" has the same meaning as provided in s. 775.30(1) ~~means an activity that:~~

~~(a) 1. Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or~~

~~2. Involves a violation of s. 815.06; and~~

~~(b) Is intended to:~~

~~1. Intimidate, injure, or coerce a civilian population;~~

~~2. Influence the policy of a government by intimidation or coercion; or~~

~~3. Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.~~

(4) The reclassification of offenses under this section does not apply to s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35.

Section 3. Section 775.32, Florida Statutes, is created to

591-03326-17

2017476c1

read:

775.32 Use of military-type training provided by a designated foreign terrorist organization.—

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

(a) "Critical infrastructure facility" has the same meaning as provided in s. 493.631.

(b) "Designated foreign terrorist organization" means an organization designated as a terrorist organization under s. 219 of the Immigration and Nationality Act.

(c) "Military-type training" means training in means or methods that can cause the death of, or serious bodily injury to, another person, destroy or damage property or critical infrastructure facilities, or disrupt services to critical infrastructure facilities; or training on the use, storage, production, or assembly of an explosive, a firearm, or any other weapon, including a weapon of mass destruction.

(d) "Serious bodily injury" has the same meaning as provided in s. 775.30(3).

(e) "Weapon of mass destruction" has the same meaning as provided in s. 790.166.

(2) A person who has received military-type training from a designated foreign terrorist organization may not use, attempt to use, or conspire to use such military-type training with the intent to unlawfully harm another person or damage critical infrastructure facilities.

(3) A person who commits a violation of subsection (2) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who commits a violation of subsection (2)

591-03326-17

2017476c1

which results in the death of, or serious bodily injury to, a person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 775.33, Florida Statutes, is created to read:

775.33 Providing material support or resources for terrorism or to terrorist organizations.—

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

(a) "Designated foreign terrorist organization" has the same meaning as provided in s. 775.32.

(b) "Expert advice or assistance" means advice or assistance derived from scientific, technical, or other specialized knowledge.

(c) "Material support or resources" means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, or transportation. The term does not include medicine or religious materials.

(d) "Serious bodily injury" has the same meaning as provided in s. 775.30(3).

(e) "Training" means instruction or teaching designed to impart a specific skill rather than general knowledge.

(2) A person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that the support or resources are to be used in preparation for or in

591-03326-17 2017476c1

233 carrying out a violation of s. 775.30, s. 775.32, s. 775.34, s.
 234 775.35, s. 790.16, s. 790.161(2), (3), or (4), s. 790.166, s.
 235 790.19, s. 815.06, s. 859.01, s. 860.121, s. 860.16, s. 876.32,
 236 s. 876.34, or s. 876.36; who conceals an escape from the
 237 commission of any such violation; or who attempts or conspires
 238 to carry out such violation commits a felony of the first
 239 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 240 775.084.

241 (3) A person who knowingly provides material support or
 242 resources to a designated foreign terrorist organization, or
 243 attempts or conspires to do so, commits a felony of the first
 244 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 245 775.084. To violate this subsection, a person must have
 246 knowledge that the organization is a designated foreign
 247 terrorist organization or that the organization has engaged in
 248 or engages in terrorism or terrorist activity.

249 (4) A person who commits a violation of subsection (2) or
 250 subsection (3) which results in death or serious bodily injury
 251 commits a life felony, punishable as provided in s. 775.082, s.
 252 775.083, or s. 775.084.

253 (5) (a) For purposes of prosecution under subsection (2) or
 254 subsection (3), a person is deemed to provide material support
 255 or resources by providing personnel if the person knowingly
 256 provides, attempts to provide, or conspires to provide himself
 257 or herself or another person:

258 1. To a person engaged in, or intending to engage in, an
 259 act of terrorism to work under the direction and control of the
 260 person engaged in, or intending to engage in, an act of
 261 terrorism, or to organize, manage, supervise, or otherwise

591-03326-17 2017476c1

262 direct the operations of the person engaged in, or intending to
 263 engage in, an act of terrorism; or

264 2. To work under the direction and control of a designated
 265 foreign terrorist organization, or to organize, manage,
 266 supervise, or otherwise direct the operation of that
 267 organization.

268 (b) An individual who acts entirely independently of the
 269 person engaged in, or intending to engage in, an act of
 270 terrorism or the designated foreign terrorist organization to
 271 advance the person's or organization's goals or objectives is
 272 not working under the direction and control of the person
 273 engaged in, or intending to engage in, an act of terrorism or
 274 the designated foreign terrorist organization.

275 (6) A person may not be prosecuted under this section if
 276 his or her activity was authorized by a governmental or law
 277 enforcement agency of this state or of the United States in the
 278 agency's official capacity and pursuant to a lawful purpose.

279 (7) It is the intent of the Legislature that subsections
 280 (2) and (3) be interpreted in a manner consistent with federal
 281 case law interpreting 18 U.S.C. ss. 2339A and 2339B,
 282 respectively.

283 (8) The Department of Law Enforcement, in consultation with
 284 the Office of the Attorney General, shall create guidelines for
 285 law enforcement investigations conducted pursuant to this
 286 section to ensure the protection of privacy rights, civil
 287 rights, and civil liberties.

288 Section 5. Section 775.34, Florida Statutes, is created to
 289 read:

290 775.34 Membership in a designated foreign terrorist

591-03326-17

2017476c1

291 organization.—A person who willfully becomes a member of a
 292 designated foreign terrorist organization and serves under the
 293 direction or control of that organization with the intent to
 294 further the illegal acts of the organization commits a felony of
 295 the second degree, punishable as provided in s. 775.082, s.
 296 775.083, or s. 775.084. As used in this section, the term
 297 “designated foreign terrorist organization” has the same meaning
 298 as provided in s. 775.32.

299 Section 6. Section 775.35, Florida Statutes, is created to
 300 read:

301 775.35 Agroterrorism; penalties.—

302 (1) A person who intentionally disseminates or spreads any
 303 type of contagious, communicable, or infectious disease among
 304 crops, poultry as defined in s. 583.01, livestock as defined in
 305 s. 588.13, or other animals commits a felony of the second
 306 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 307 775.084. It is an affirmative defense to this violation if the
 308 activity is consistent with a medically recognized procedure or
 309 if the activity is done in the course of legitimate,
 310 professional scientific research.

311 (2) A person who commits a violation of subsection (1)
 312 which results in death or serious bodily injury to a person
 313 commits a life felony, punishable as provided in s. 775.082, s.
 314 775.083, or s. 775.084. As used in this subsection, the term
 315 “serious bodily injury” has the same meaning as provided in s.
 316 775.30(3).

317 Section 7. Paragraph (a) of subsection (1) and subsections
 318 (3) and (4) of section 782.04, Florida Statutes, are amended to
 319 read:

591-03326-17

2017476c1

320 782.04 Murder.—

321 (1) (a) The unlawful killing of a human being:

322 1. When perpetrated from a premeditated design to effect
 323 the death of the person killed or any human being;

324 2. When committed by a person engaged in the perpetration
 325 of, or in the attempt to perpetrate, any:

326 a. Trafficking offense prohibited by s. 893.135(1),

327 b. Arson,

328 c. Sexual battery,

329 d. Robbery,

330 e. Burglary,

331 f. Kidnapping,

332 g. Escape,

333 h. Aggravated child abuse,

334 i. Aggravated abuse of an elderly person or disabled adult,

335 j. Aircraft piracy,

336 k. Unlawful throwing, placing, or discharging of a

337 destructive device or bomb,

338 l. Carjacking,

339 m. Home-invasion robbery,

340 n. Aggravated stalking,

341 o. Murder of another human being,

342 p. Resisting an officer with violence to his or her person,

343 q. Aggravated fleeing or eluding with serious bodily injury

344 or death,

345 r. Felony that is an act of terrorism or is in furtherance

346 of an act of terrorism, including a felony under s. 775.30, s.

347 775.32, s. 775.33, s. 775.34, or s. 775.35, or

348 s. Human trafficking; or

591-03326-17

2017476c1

349 3. Which resulted from the unlawful distribution of any
 350 substance controlled under s. 893.03(1), cocaine as described in
 351 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 352 compound, derivative, or preparation of opium, or methadone by a
 353 person 18 years of age or older, when such drug is proven to be
 354 the proximate cause of the death of the user,
 355
 356 is murder in the first degree and constitutes a capital felony,
 357 punishable as provided in s. 775.082.
 358 (3) When a human being is killed during the perpetration
 359 of, or during the attempt to perpetrate, any:
 360 (a) Trafficking offense prohibited by s. 893.135(1),
 361 (b) Arson,
 362 (c) Sexual battery,
 363 (d) Robbery,
 364 (e) Burglary,
 365 (f) Kidnapping,
 366 (g) Escape,
 367 (h) Aggravated child abuse,
 368 (i) Aggravated abuse of an elderly person or disabled
 369 adult,
 370 (j) Aircraft piracy,
 371 (k) Unlawful throwing, placing, or discharging of a
 372 destructive device or bomb,
 373 (l) Carjacking,
 374 (m) Home-invasion robbery,
 375 (n) Aggravated stalking,
 376 (o) Murder of another human being,
 377 (p) Aggravated fleeing or eluding with serious bodily

Page 13 of 68

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591-03326-17

2017476c1

378 injury or death,
 379 (q) Resisting an officer with violence to his or her
 380 person, or
 381 (r) Felony that is an act of terrorism or is in furtherance
 382 of an act of terrorism, including a felony under s. 775.30, s.
 383 775.32, s. 775.33, s. 775.34, or s. 775.35,
 384
 385 by a person other than the person engaged in the perpetration of
 386 or in the attempt to perpetrate such felony, the person
 387 perpetrating or attempting to perpetrate such felony commits
 388 murder in the second degree, which constitutes a felony of the
 389 first degree, punishable by imprisonment for a term of years not
 390 exceeding life or as provided in s. 775.082, s. 775.083, or s.
 391 775.084.
 392 (4) The unlawful killing of a human being, when perpetrated
 393 without any design to effect death, by a person engaged in the
 394 perpetration of, or in the attempt to perpetrate, any felony
 395 other than any:
 396 (a) Trafficking offense prohibited by s. 893.135(1),
 397 (b) Arson,
 398 (c) Sexual battery,
 399 (d) Robbery,
 400 (e) Burglary,
 401 (f) Kidnapping,
 402 (g) Escape,
 403 (h) Aggravated child abuse,
 404 (i) Aggravated abuse of an elderly person or disabled
 405 adult,
 406 (j) Aircraft piracy,

Page 14 of 68

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591-03326-17

2017476c1

407 (k) Unlawful throwing, placing, or discharging of a
 408 destructive device or bomb,
 409 (l) Unlawful distribution of any substance controlled under
 410 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or
 411 opium or any synthetic or natural salt, compound, derivative, or
 412 preparation of opium by a person 18 years of age or older, when
 413 such drug is proven to be the proximate cause of the death of
 414 the user,
 415 (m) Carjacking,
 416 (n) Home-invasion robbery,
 417 (o) Aggravated stalking,
 418 (p) Murder of another human being,
 419 (q) Aggravated fleeing or eluding with serious bodily
 420 injury or death,
 421 (r) Resisting an officer with violence to his or her
 422 person, or
 423 (s) Felony that is an act of terrorism or is in furtherance
 424 of an act of terrorism, including a felony under s. 775.30, s.
 425 775.32, s. 775.33, s. 775.34, or s. 775.35,
 426
 427 is murder in the third degree and constitutes a felony of the
 428 second degree, punishable as provided in s. 775.082, s. 775.083,
 429 or s. 775.084.
 430 Section 8. For the purpose of incorporating the amendment
 431 made by this act to section 775.30, Florida Statutes, in a
 432 reference thereto, paragraph (c) of subsection (3) of section
 433 373.6055, Florida Statutes, is reenacted to read:
 434 373.6055 Criminal history checks for certain water
 435 management district employees and others.-

Page 15 of 68

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591-03326-17

2017476c1

436 (3)
 437 (c) In addition to other requirements for employment or
 438 access established by any water management district pursuant to
 439 its water management district's security plan for buildings,
 440 facilities, and structures, each water management district's
 441 security plan shall provide that:
 442 1. Any person who has within the past 7 years been
 443 convicted, regardless of whether adjudication was withheld, for
 444 a forcible felony as defined in s. 776.08; an act of terrorism
 445 as defined in s. 775.30; planting of a hoax bomb as provided in
 446 s. 790.165; any violation involving the manufacture, possession,
 447 sale, delivery, display, use, or attempted or threatened use of
 448 a weapon of mass destruction or hoax weapon of mass destruction
 449 as provided in s. 790.166; dealing in stolen property; any
 450 violation of s. 893.135; any violation involving the sale,
 451 manufacturing, delivery, or possession with intent to sell,
 452 manufacture, or deliver a controlled substance; burglary;
 453 robbery; any felony violation of s. 812.014; any violation of s.
 454 790.07; any crime an element of which includes use or possession
 455 of a firearm; any conviction for any similar offenses under the
 456 laws of another jurisdiction; or conviction for conspiracy to
 457 commit any of the listed offenses may not be qualified for
 458 initial employment within or authorized regular access to
 459 buildings, facilities, or structures defined in the water
 460 management district's security plan as restricted access areas.
 461 2. Any person who has at any time been convicted of any of
 462 the offenses listed in subparagraph 1. may not be qualified for
 463 initial employment within or authorized regular access to
 464 buildings, facilities, or structures defined in the water

Page 16 of 68

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591-03326-17

2017476c1

management district's security plan as restricted access areas unless, after release from incarceration and any supervision imposed as a sentence, the person remained free from a subsequent conviction, regardless of whether adjudication was withheld, for any of the listed offenses for a period of at least 7 years prior to the employment or access date under consideration.

Section 9. For the purpose of incorporating the amendment made by this act to section 775.30, Florida Statutes, in a reference thereto, subsection (1) of section 381.95, Florida Statutes, is reenacted to read:

381.95 Medical facility information maintained for terrorism response purposes; confidentiality.—

(1) Any information identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained, or regulated by the Department of Health as part of the state's plan to defend against an act of terrorism as defined in s. 775.30 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to information held by the Department of Health before, on, or after the effective date of this section.

Section 10. For the purpose of incorporating the amendment made by this act to section 775.30, Florida Statutes, in references thereto, paragraph (a) of subsection (1) and subsection (2) of section 395.1056, Florida Statutes, are reenacted to read:

591-03326-17

2017476c1

395.1056 Plan components addressing a hospital's response to terrorism; public records exemption; public meetings exemption.—

(1) (a) Those portions of a comprehensive emergency management plan that address the response of a public or private hospital to an act of terrorism as defined by s. 775.30 held by the agency, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Health, or the Division of Emergency Management are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) Those portions of a comprehensive emergency management plan that address the response of a public hospital to an act of terrorism as defined by s. 775.30 held by that public hospital are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Portions of a comprehensive emergency management plan that address the response of a public hospital to an act of terrorism include those portions addressing:

(a) Security systems or plans;

(b) Vulnerability analyses;

(c) Emergency evacuation transportation;

(d) Sheltering arrangements;

(e) Postdisaster activities, including provisions for emergency power, communications, food, and water;

(f) Postdisaster transportation;

(g) Supplies, including drug caches;

(h) Staffing;

(i) Emergency equipment; and

(j) Individual identification of residents, transfer of

591-03326-17 2017476c1

523 records, and methods of responding to family inquiries.
 524 Section 11. For the purpose of incorporating the amendment
 525 made by this act to section 775.30, Florida Statutes, in a
 526 reference thereto, subsection (7) of section 874.03, Florida
 527 Statutes, is reenacted to read:
 528 874.03 Definitions.—As used in this chapter:
 529 (7) "Terrorist organization" means any organized group
 530 engaged in or organized for the purpose of engaging in terrorism
 531 as defined in s. 775.30. This definition shall not be construed
 532 to prevent prosecution under this chapter of individuals acting
 533 alone.
 534 Section 12. For the purpose of incorporating the amendment
 535 made by this act to section 775.30, Florida Statutes, in a
 536 reference thereto, paragraph (a) of subsection (4) of section
 537 907.041, Florida Statutes, is reenacted to read:
 538 907.041 Pretrial detention and release.—
 539 (4) PRETRIAL DETENTION.—
 540 (a) As used in this subsection, "dangerous crime" means any
 541 of the following:
 542 1. Arson;
 543 2. Aggravated assault;
 544 3. Aggravated battery;
 545 4. Illegal use of explosives;
 546 5. Child abuse or aggravated child abuse;
 547 6. Abuse of an elderly person or disabled adult, or
 548 aggravated abuse of an elderly person or disabled adult;
 549 7. Aircraft piracy;
 550 8. Kidnapping;
 551 9. Homicide;

591-03326-17 2017476c1

552 10. Manslaughter;
 553 11. Sexual battery;
 554 12. Robbery;
 555 13. Carjacking;
 556 14. Lewd, lascivious, or indecent assault or act upon or in
 557 presence of a child under the age of 16 years;
 558 15. Sexual activity with a child, who is 12 years of age or
 559 older but less than 18 years of age, by or at solicitation of
 560 person in familial or custodial authority;
 561 16. Burglary of a dwelling;
 562 17. Stalking and aggravated stalking;
 563 18. Act of domestic violence as defined in s. 741.28;
 564 19. Home invasion robbery;
 565 20. Act of terrorism as defined in s. 775.30;
 566 21. Manufacturing any substances in violation of chapter
 567 893; and
 568 22. Attempting or conspiring to commit any such crime.
 569 Section 13. For the purpose of incorporating the amendment
 570 made by this act to section 775.30, Florida Statutes, in a
 571 reference thereto, subsection (2) of section 943.0312, Florida
 572 Statutes, is reenacted to read:
 573 943.0312 Regional domestic security task forces.—The
 574 Legislature finds that there is a need to develop and implement
 575 a statewide strategy to address prevention, preparation,
 576 protection, response, and recovery efforts by federal, state,
 577 and local law enforcement agencies, emergency management
 578 agencies, fire and rescue departments, first-responder personnel
 579 and others in dealing with potential or actual terrorist acts
 580 within or affecting this state.

591-03326-17

2017476c1

581 (2) In accordance with the state's domestic security
 582 strategic goals and objectives, each task force shall coordinate
 583 efforts to counter terrorism, as defined by s. 775.30, among
 584 local, state, and federal resources to ensure that such efforts
 585 are not fragmented or unnecessarily duplicated; coordinate
 586 training for local and state personnel to counter terrorism as
 587 defined by s. 775.30; coordinate the collection and
 588 dissemination of investigative and intelligence information; and
 589 facilitate responses to terrorist incidents within or affecting
 590 each region. With the approval of the Chief of Domestic
 591 Security, the task forces may incorporate other objectives
 592 reasonably related to the goals of enhancing the state's
 593 domestic security and ability to detect, prevent, and respond to
 594 acts of terrorism within or affecting this state. Each task
 595 force shall take into account the variety of conditions and
 596 resources present within its region.

597 Section 14. For the purpose of incorporating the amendment
 598 made by this act to section 775.30, Florida Statutes, in a
 599 reference thereto, subsection (2) of section 943.0321, Florida
 600 Statutes, is reenacted to read:

601 943.0321 The Florida Domestic Security and Counter-
 602 Terrorism Intelligence Center and the Florida Domestic Security
 603 and Counter-Terrorism Database.—

604 (2) The intelligence center shall:

605 (a) Gather, document, and analyze active criminal
 606 intelligence and criminal investigative information related to
 607 terrorism, as defined in s. 775.30, including information
 608 related to individuals or groups that plot, plan, or coordinate
 609 acts of terrorism, as defined in s. 775.30, and that operate

591-03326-17

2017476c1

610 within this state or otherwise commit acts affecting this state;

611 (b) Maintain and operate the domestic security and counter-
 612 terrorism database; and

613 (c) Provide support and assistance to federal, state, and
 614 local law enforcement agencies and prosecutors that investigate
 615 or prosecute terrorism, as defined in s. 775.30.

616 Section 15. For the purpose of incorporating the amendment
 617 made by this act to section 782.04, Florida Statutes, in a
 618 reference thereto, subsection (2) of section 27.401, Florida
 619 Statutes, is reenacted to read:

620 27.401 Cross-Circuit Conflict Representation Pilot
 621 Program.—

622 (2) Notwithstanding ss. 27.40 and 27.5305:

623 (a) If the public defender in the Tenth Judicial Circuit is
 624 unable to provide representation to an indigent defendant
 625 charged with a crime under s. 782.04(2), (3), or (4) due to a
 626 conflict of interest and the criminal conflict and civil
 627 regional counsel of the Second Region is also unable to provide
 628 representation for the case due to a conflict of interest, the
 629 public defender in the Thirteenth Judicial Circuit shall be
 630 appointed. If the public defender in the Thirteenth Judicial
 631 Circuit is unable to provide representation for the case due to
 632 a conflict of interest, the criminal conflict and civil regional
 633 counsel in the Fifth Region shall be appointed. If the criminal
 634 conflict and civil regional counsel in the Fifth Region is
 635 unable to provide representation due to a conflict of interest,
 636 private counsel shall be appointed.

637 (b) If the public defender in the Thirteenth Judicial
 638 Circuit is unable to provide representation to an indigent

591-03326-17 2017476c1
 639 defendant charged with a crime under s. 782.04(2), (3), or (4)
 640 due to a conflict of interest and the criminal conflict and
 641 civil regional counsel of the Second Region is also unable to
 642 provide representation for the case due to a conflict of
 643 interest, the public defender in the Tenth Judicial Circuit
 644 shall be appointed. If the public defender in the Tenth Judicial
 645 Circuit is unable to provide representation for the case due to
 646 a conflict of interest, the criminal conflict and civil regional
 647 counsel in the Fifth Region shall be appointed. If the criminal
 648 conflict and civil regional counsel in the Fifth Region is
 649 unable to provide representation due to a conflict of interest,
 650 private counsel shall be appointed.

651 Section 16. For the purpose of incorporating the amendment
 652 made by this act to section 782.04, Florida Statutes, in a
 653 reference thereto, paragraph (d) of subsection (1) of section
 654 39.806, Florida Statutes, is reenacted to read:

655 39.806 Grounds for termination of parental rights.—

656 (1) Grounds for the termination of parental rights may be
 657 established under any of the following circumstances:

658 (d) When the parent of a child is incarcerated and either:

659 1. The period of time for which the parent is expected to
 660 be incarcerated will constitute a significant portion of the
 661 child's minority. When determining whether the period of time is
 662 significant, the court shall consider the child's age and the
 663 child's need for a permanent and stable home. The period of time
 664 begins on the date that the parent enters into incarceration;

665 2. The incarcerated parent has been determined by the court
 666 to be a violent career criminal as defined in s. 775.084, a
 667 habitual violent felony offender as defined in s. 775.084, or a

591-03326-17 2017476c1
 668 sexual predator as defined in s. 775.21; has been convicted of
 669 first degree or second degree murder in violation of s. 782.04
 670 or a sexual battery that constitutes a capital, life, or first
 671 degree felony violation of s. 794.011; or has been convicted of
 672 an offense in another jurisdiction which is substantially
 673 similar to one of the offenses listed in this paragraph. As used
 674 in this section, the term "substantially similar offense" means
 675 any offense that is substantially similar in elements and
 676 penalties to one of those listed in this subparagraph, and that
 677 is in violation of a law of any other jurisdiction, whether that
 678 of another state, the District of Columbia, the United States or
 679 any possession or territory thereof, or any foreign
 680 jurisdiction; or

681 3. The court determines by clear and convincing evidence
 682 that continuing the parental relationship with the incarcerated
 683 parent would be harmful to the child and, for this reason, that
 684 termination of the parental rights of the incarcerated parent is
 685 in the best interest of the child. When determining harm, the
 686 court shall consider the following factors:

687 a. The age of the child.

688 b. The relationship between the child and the parent.

689 c. The nature of the parent's current and past provision
 690 for the child's developmental, cognitive, psychological, and
 691 physical needs.

692 d. The parent's history of criminal behavior, which may
 693 include the frequency of incarceration and the unavailability of
 694 the parent to the child due to incarceration.

695 e. Any other factor the court deems relevant.

696 Section 17. For the purpose of incorporating the amendment

591-03326-17

2017476c1

made by this act to section 782.04, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 63.089, Florida Statutes, is reenacted to read:

63.089 Proceeding to terminate parental rights pending adoption; hearing; grounds; dismissal of petition; judgment.—

(4) FINDING OF ABANDONMENT.—A finding of abandonment resulting in a termination of parental rights must be based upon clear and convincing evidence that a parent or person having legal custody has abandoned the child in accordance with the definition contained in s. 63.032. A finding of abandonment may also be based upon emotional abuse or a refusal to provide reasonable financial support, when able, to a birth mother during her pregnancy or on whether the person alleged to have abandoned the child, while being able, failed to establish contact with the child or accept responsibility for the child's welfare.

(b) The child has been abandoned when the parent of a child is incarcerated on or after October 1, 2001, in a federal, state, or county correctional institution and:

1. The period of time for which the parent has been or is expected to be incarcerated will constitute a significant portion of the child's minority. In determining whether the period of time is significant, the court shall consider the child's age and the child's need for a permanent and stable home. The period of time begins on the date that the parent enters into incarceration;

2. The incarcerated parent has been determined by a court of competent jurisdiction to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as

591-03326-17

2017476c1

defined in s. 775.084, convicted of child abuse as defined in s. 827.03, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of a substantially similar offense in another jurisdiction. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; or

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, termination of the parental rights of the incarcerated parent is in the best interests of the child.

Section 18. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in a reference thereto, subsection (10) of section 95.11, Florida Statutes, is reenacted to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph (4) (d), an action for wrongful death seeking damages authorized under s. 768.21 brought against a natural person for an

591-03326-17

2017476c1

intentional tort resulting in death from acts described in s. 782.04 or s. 782.07 may be commenced at any time. This subsection shall not be construed to require an arrest, the filing of formal criminal charges, or a conviction for a violation of s. 782.04 or s. 782.07 as a condition for filing a civil action.

Section 19. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in a reference thereto, paragraph (e) of subsection (2) of section 435.04, Florida Statutes, is reenacted to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or similar law of another jurisdiction:

(e) Section 782.04, relating to murder.

Section 20. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in a reference thereto, paragraph (c) of subsection (4) of section 435.07, Florida Statutes, is reenacted to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this

591-03326-17

2017476c1

chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(4)

(c) Disqualification from employment under this chapter may not be removed from, and an exemption may not be granted to, any current or prospective child care personnel, as defined in s. 402.302(3), and such a person is disqualified from employment as child care personnel, regardless of any previous exemptions from disqualification, if the person has been registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been arrested for and is awaiting final disposition of, has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, or has been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or a similar law of another jurisdiction:

1. A felony offense prohibited under any of the following statutes:

a. Chapter 741, relating to domestic violence.

b. Section 782.04, relating to murder.

c. Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

d. Section 784.021, relating to aggravated assault.

e. Section 784.045, relating to aggravated battery.

f. Section 787.01, relating to kidnapping.

591-03326-17

2017476c1

813 g. Section 787.025, relating to luring or enticing a child.
 814 h. Section 787.04(2), relating to leading, taking,
 815 enticing, or removing a minor beyond the state limits, or
 816 concealing the location of a minor, with criminal intent pending
 817 custody proceedings.
 818 i. Section 787.04(3), relating to leading, taking,
 819 enticing, or removing a minor beyond the state limits, or
 820 concealing the location of a minor, with criminal intent pending
 821 dependency proceedings or proceedings concerning alleged abuse
 822 or neglect of a minor.
 823 j. Section 794.011, relating to sexual battery.
 824 k. Former s. 794.041, relating to sexual activity with or
 825 solicitation of a child by a person in familial or custodial
 826 authority.
 827 l. Section 794.05, relating to unlawful sexual activity
 828 with certain minors.
 829 m. Section 794.08, relating to female genital mutilation.
 830 n. Section 806.01, relating to arson.
 831 o. Section 826.04, relating to incest.
 832 p. Section 827.03, relating to child abuse, aggravated
 833 child abuse, or neglect of a child.
 834 q. Section 827.04, relating to contributing to the
 835 delinquency or dependency of a child.
 836 r. Section 827.071, relating to sexual performance by a
 837 child.
 838 s. Chapter 847, relating to child pornography.
 839 t. Section 985.701, relating to sexual misconduct in
 840 juvenile justice programs.
 841 2. A misdemeanor offense prohibited under any of the

591-03326-17

2017476c1

842 following statutes:
 843 a. Section 784.03, relating to battery, if the victim of
 844 the offense was a minor.
 845 b. Section 787.025, relating to luring or enticing a child.
 846 c. Chapter 847, relating to child pornography.
 847 3. A criminal act committed in another state or under
 848 federal law which, if committed in this state, constitutes an
 849 offense prohibited under any statute listed in subparagraph 1.
 850 or subparagraph 2.
 851 Section 21. For the purpose of incorporating the amendment
 852 made by this act to section 782.04, Florida Statutes, in
 853 references thereto, paragraph (b) of subsection (1) and
 854 paragraphs (a), (b), and (c) of subsection (3) of section
 855 775.082, Florida Statutes, are reenacted to read:
 856 775.082 Penalties; applicability of sentencing structures;
 857 mandatory minimum sentences for certain reoffenders previously
 858 released from prison.—
 859 (1)
 860 (b)1. A person who actually killed, intended to kill, or
 861 attempted to kill the victim and who is convicted under s.
 862 782.04 of a capital felony, or an offense that was reclassified
 863 as a capital felony, which was committed before the person
 864 attained 18 years of age shall be punished by a term of
 865 imprisonment for life if, after a sentencing hearing conducted
 866 by the court in accordance with s. 921.1401, the court finds
 867 that life imprisonment is an appropriate sentence. If the court
 868 finds that life imprisonment is not an appropriate sentence,
 869 such person shall be punished by a term of imprisonment of at
 870 least 40 years. A person sentenced pursuant to this subparagraph

591-03326-17

2017476c1

871 is entitled to a review of his or her sentence in accordance
872 with s. 921.1402(2)(a).

873 2. A person who did not actually kill, intend to kill, or
874 attempt to kill the victim and who is convicted under s. 782.04
875 of a capital felony, or an offense that was reclassified as a
876 capital felony, which was committed before the person attained
877 18 years of age may be punished by a term of imprisonment for
878 life or by a term of years equal to life if, after a sentencing
879 hearing conducted by the court in accordance with s. 921.1401,
880 the court finds that life imprisonment is an appropriate
881 sentence. A person who is sentenced to a term of imprisonment of
882 more than 15 years is entitled to a review of his or her
883 sentence in accordance with s. 921.1402(2)(c).

884 3. The court shall make a written finding as to whether a
885 person is eligible for a sentence review hearing under s.
886 921.1402(2)(a) or (c). Such a finding shall be based upon
887 whether the person actually killed, intended to kill, or
888 attempted to kill the victim. The court may find that multiple
889 defendants killed, intended to kill, or attempted to kill the
890 victim.

891 (3) A person who has been convicted of any other designated
892 felony may be punished as follows:

893 (a)1. For a life felony committed before October 1, 1983,
894 by a term of imprisonment for life or for a term of at least 30
895 years.

896 2. For a life felony committed on or after October 1, 1983,
897 by a term of imprisonment for life or by a term of imprisonment
898 not exceeding 40 years.

899 3. Except as provided in subparagraph 4., for a life felony

591-03326-17

2017476c1

900 committed on or after July 1, 1995, by a term of imprisonment
901 for life or by imprisonment for a term of years not exceeding
902 life imprisonment.

903 4.a. Except as provided in sub-subparagraph b., for a life
904 felony committed on or after September 1, 2005, which is a
905 violation of s. 800.04(5)(b), by:

906 (I) A term of imprisonment for life; or

907 (II) A split sentence that is a term of at least 25 years'
908 imprisonment and not exceeding life imprisonment, followed by
909 probation or community control for the remainder of the person's
910 natural life, as provided in s. 948.012(4).

911 b. For a life felony committed on or after July 1, 2008,
912 which is a person's second or subsequent violation of s.
913 800.04(5)(b), by a term of imprisonment for life.

914 5. Notwithstanding subparagraphs 1.-4., a person who is
915 convicted under s. 782.04 of an offense that was reclassified as
916 a life felony which was committed before the person attained 18
917 years of age may be punished by a term of imprisonment for life
918 or by a term of years equal to life imprisonment if the judge
919 conducts a sentencing hearing in accordance with s. 921.1401 and
920 finds that life imprisonment or a term of years equal to life
921 imprisonment is an appropriate sentence.

922 a. A person who actually killed, intended to kill, or
923 attempted to kill the victim and is sentenced to a term of
924 imprisonment of more than 25 years is entitled to a review of
925 his or her sentence in accordance with s. 921.1402(2)(b).

926 b. A person who did not actually kill, intend to kill, or
927 attempt to kill the victim and is sentenced to a term of
928 imprisonment of more than 15 years is entitled to a review of

591-03326-17

2017476c1

his or her sentence in accordance with s. 921.1402(2)(c).

c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

6. For a life felony committed on or after October 1, 2014, which is a violation of s. 787.06(3)(g), by a term of imprisonment for life.

(b)1. For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

2. Notwithstanding subparagraph 1., a person convicted under s. 782.04 of a first degree felony punishable by a term of years not exceeding life imprisonment, or an offense that was reclassified as a first degree felony punishable by a term of years not exceeding life, which was committed before the person attained 18 years of age may be punished by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that a term of years equal to life imprisonment is an appropriate sentence.

a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(b).

b. A person who did not actually kill, intend to kill, or

591-03326-17

2017476c1

attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).

c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

(c) Notwithstanding paragraphs (a) and (b), a person convicted of an offense that is not included in s. 782.04 but that is an offense that is a life felony or is punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, or an offense that was reclassified as a life felony or an offense punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 20 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(d).

Section 22. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsections (1), (2), (4), (5), (6), and (7)

591-03326-17 2017476c1

of section 775.0823, Florida Statutes, are reenacted to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—The Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(4) For murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(5) For attempted murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(6) For murder in the third degree as described in s.

591-03326-17 2017476c1

782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(7) For attempted murder in the third degree as described in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 23. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in a reference thereto, section 782.051, Florida Statutes, is reenacted to read:

782.051 Attempted felony murder.—

(1) Any person who perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3) and who commits, aids, or abets an intentional act that is not an essential element of the felony and that could, but does not, cause the death of another commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 9 of the Criminal Punishment Code. Victim injury points shall be scored under this subsection.

(2) Any person who perpetrates or attempts to perpetrate any felony other than a felony enumerated in s. 782.04(3) and who commits, aids, or abets an intentional act that is not an essential element of the felony and that could, but does not, cause the death of another commits a felony of the first degree,

591-03326-17 2017476c1

1045 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
1046 which is an offense ranked in level 8 of the Criminal Punishment
1047 Code. Victim injury points shall be scored under this
1048 subsection.

1049 (3) When a person is injured during the perpetration of or
1050 the attempt to perpetrate any felony enumerated in s. 782.04(3)
1051 by a person other than the person engaged in the perpetration of
1052 or the attempt to perpetrate such felony, the person
1053 perpetrating or attempting to perpetrate such felony commits a
1054 felony of the second degree, punishable as provided in s.
1055 775.082, s. 775.083, or s. 775.084, which is an offense ranked
1056 in level 7 of the Criminal Punishment Code. Victim injury points
1057 shall be scored under this subsection.

1058 Section 24. For the purpose of incorporating the amendment
1059 made by this act to section 782.04, Florida Statutes, in a
1060 reference thereto, section 782.065, Florida Statutes, is
1061 reenacted to read:

1062 782.065 Murder; law enforcement officer, correctional
1063 officer, correctional probation officer.—Notwithstanding ss.
1064 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
1065 shall be sentenced to life imprisonment without eligibility for
1066 release upon findings by the trier of fact that, beyond a
1067 reasonable doubt:

1068 (1) The defendant committed murder in the first degree in
1069 violation of s. 782.04(1) and a death sentence was not imposed;
1070 murder in the second or third degree in violation of s.
1071 782.04(2), (3), or (4); attempted murder in the first or second
1072 degree in violation of s. 782.04(1)(a)1. or (2); or attempted
1073 felony murder in violation of s. 782.051; and

591-03326-17 2017476c1

1074 (2) The victim of any offense described in subsection (1)
1075 was a law enforcement officer, part-time law enforcement
1076 officer, auxiliary law enforcement officer, correctional
1077 officer, part-time correctional officer, auxiliary correctional
1078 officer, correctional probation officer, part-time correctional
1079 probation officer, or auxiliary correctional probation officer,
1080 as those terms are defined in s. 943.10, engaged in the lawful
1081 performance of a legal duty.

1082 Section 25. For the purpose of incorporating the amendment
1083 made by this act to section 782.04, Florida Statutes, in a
1084 reference thereto, section 903.133, Florida Statutes, is
1085 reenacted to read:

1086 903.133 Bail on appeal; prohibited for certain felony
1087 convictions.—Notwithstanding the provisions of s. 903.132, no
1088 person adjudged guilty of a felony of the first degree for a
1089 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
1090 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
1091 violation of s. 794.011(2) or (3), shall be admitted to bail
1092 pending review either by posttrial motion or appeal.

1093 Section 26. For the purpose of incorporating the amendment
1094 made by this act to section 782.04, Florida Statutes, in
1095 references thereto, paragraphs (h) and (i) of subsection (3) of
1096 section 921.0022, Florida Statutes, are reenacted to read:

1097 921.0022 Criminal Punishment Code; offense severity ranking
1098 chart.—

1099 (3) OFFENSE SEVERITY RANKING CHART

1100 (h) LEVEL 8

1101

	591-03326-17		2017476c1
	Florida Statute	Felony Degree	Description
1102	316.193	2nd	DUI manslaughter.
1103	(3) (c) 3.a.		
	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
1104	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
1105	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
1106	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
1107	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
1108	560.125 (5) (b)	2nd	Money transmitter

Page 39 of 68

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	591-03326-17		2017476c1
			business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
1109	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
1110	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
1111	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.

Page 40 of 68

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	591-03326-17		2017476c1
1112	782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
1113	782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
1114	782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
1115	787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
1116	787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
1117	787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an

	591-03326-17		2017476c1
			unauthorized alien adult.
1118	787.06(3)(e)1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
1119	787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.
1120	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
1121	794.011(5)(a)	1st	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.

1122	591-03326-17	2017476c1		
	794.011(5)(b)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.	
1123	794.011(5)(c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.	
1124	794.011(5)(d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.	
1125	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.	
1126				

	591-03326-17	2017476c1		
	800.04(4)(b)	2nd	Lewd or lascivious battery.	
1127	800.04(4)(c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.	
1128	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.	
1129	810.02(2)(a)	1st,PBL	Burglary with assault or battery.	
1130	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.	
1131	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.	
1132	812.014(2)(a)2.	1st	Property stolen; cargo	

	591-03326-17		2017476c1
			valued at \$50,000 or more, grand theft in 1st degree.
1133			
	812.13(2)(b)	1st	Robbery with a weapon.
1134			
	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
1135			
	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
1136			
	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
1137			
	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
1138			
	817.535(5)(a)	2nd	Filing false lien or other unauthorized

Page 45 of 68

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	591-03326-17		2017476c1
			document; owner of the property incurs financial loss as a result of the false instrument.
1139			
	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
1140			
	817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
1141			
	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
1142			
	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
1143			
	825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
1144			

Page 46 of 68

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	591-03326-17		2017476c1
1145	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
1146	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
1147	860.16	1st	Aircraft piracy.
1148	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1149	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1150			

Page 47 of 68

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	591-03326-17		2017476c1
1151	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
1152	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
1153	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
1154	893.135 (1)(c)2.c.	1st	Trafficking in hydrocodone, 50 grams or more, less than 200 grams.
1155	893.135 (1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
1156	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than

Page 48 of 68

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	591-03326-17		2017476c1	
			200 grams, less than 400 grams.	
1157	893.135	1st	Trafficking in	
	(1) (e) 1.b.		methaqualone, more than 5 kilograms, less than 25 kilograms.	
1158	893.135	1st	Trafficking in	
	(1) (f) 1.b.		amphetamine, more than 28 grams, less than 200 grams.	
1159	893.135	1st	Trafficking in	
	(1) (g) 1.b.		flunitrazepam, 14 grams or more, less than 28 grams.	
1160	893.135	1st	Trafficking in gamma-	
	(1) (h) 1.b.		hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.	
1161	893.135	1st	Trafficking in 1,4-	
	(1) (j) 1.b.		Butanediol, 5 kilograms or more, less than 10 kilograms.	
1162				

	591-03326-17		2017476c1	
	893.135	1st	Trafficking in	
	(1) (k) 2.b.		Phenethylamines, 200 grams or more, less than 400 grams.	
1163	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.	
1164	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.	
1165	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.	
1166	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.	
1167	896.101(5) (b)	2nd	Money laundering, financial transactions	

1168	591-03326-17		2017476c1 totaling or exceeding \$20,000, but less than \$100,000.
	896.104 (4) (a) 2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
1169			
1170	(i) LEVEL 9		
1171	Florida	Felony	
	Statute	Degree	Description
1172	316.193	1st	DUI manslaughter; failing to render aid or give information.
1173	(3) (c) 3.b.		
	327.35	1st	BUI manslaughter; failing to render aid or give information.
1174	(3) (c) 3.b.		
	409.920	1st	Medicaid provider fraud; \$50,000 or more.
1175	(2) (b) 1.c.		
	499.0051 (8)	1st	Knowing sale or purchase

	591-03326-17		2017476c1 of contraband prescription drugs resulting in great bodily harm.
1176	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
1177	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1178	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1179	775.0844	1st	Aggravated white collar crime.
1180	782.04 (1)	1st	Attempt, conspire, or solicit to commit

	591-03326-17		2017476c1
			premeditated murder.
1181	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
1182	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
1183	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
1184	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
1185	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
1186			

	591-03326-17		2017476c1
	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
1187	787.02(3)(a)	1st,PBL	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
1188	787.06(3)(c)1.	1st	Human trafficking for labor and services of an unauthorized alien child.
1189	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.
1190	787.06(3)(f)1.	1st,PBL	Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to

	591-03326-17		2017476c1
			within the state.
1191	790.161	1st	Attempted capital destructive device offense.
1192	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
1193	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
1194	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
1195	794.011(4)(a)	1st,PBL	Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older.
1196	794.011(4)(b)	1st	Sexual battery, certain

Page 55 of 68

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	591-03326-17		2017476c1
			circumstances; victim and offender 18 years of age or older.
1197	794.011(4)(c)	1st	Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years.
1198	794.011(4)(d)	1st,PBL	Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.
1199	794.011(8)(b)	1st,PBL	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
1200	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
1201	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less

Page 56 of 68

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	591-03326-17		2017476c1
			than 12 years; offender 18 years or older.
1202	812.13(2)(a)	1st, PBL	Robbery with firearm or other deadly weapon.
1203	812.133(2)(a)	1st, PBL	Carjacking; firearm or other deadly weapon.
1204	812.135(2)(b)	1st	Home-invasion robbery with weapon.
1205	817.535(3)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
1206	817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
1207	817.535(5)(b)	1st	Filing false lien or other unauthorized document; second or

	591-03326-17		2017476c1
			subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
1208	817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
1209	827.03(2)(a)	1st	Aggravated child abuse.
1210	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
1211	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
1212	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into

	591-03326-17		2017476c1	
			food, drink, medicine, or water with intent to kill or injure another person.	
1213	893.135	1st	Attempted capital trafficking offense.	
1214	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.	
1215	893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.	
1216	893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.	
1217	893.135 (1)(c)2.d.	1st	Trafficking in hydrocodone, 200 grams or more, less than 30 kilograms.	
1218	893.135 (1)(c)3.d.	1st	Trafficking in oxycodone, 100 grams or more, less than 30 kilograms.	
1219	893.135	1st	Trafficking in	

Page 59 of 68

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	591-03326-17		2017476c1	
	(1)(d)1.c.		phencyclidine, more than 400 grams.	
1220	893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.	
1221	893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.	
1222	893.135 (1)(h)1.c.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.	
1223	893.135 (1)(j)1.c.	1st	Trafficking in 1,4- Butanediol, 10 kilograms or more.	
1224	893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.	
1225	896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.	
1226				

Page 60 of 68

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591-03326-17 2017476c1
 896.104(4)(a)3. 1st Structuring transactions
 to evade reporting or
 registration
 requirements, financial
 transactions totaling or
 exceeding \$100,000.

Section 27. For the purpose of incorporating the amendment
 made by this act to section 782.04, Florida Statutes, in a
 reference thereto, subsection (1) of section 921.16, Florida
 Statutes, is reenacted to read:

921.16 When sentences to be concurrent and when
 consecutive.—

(1) A defendant convicted of two or more offenses charged
 in the same indictment, information, or affidavit or in
 consolidated indictments, informations, or affidavits shall
 serve the sentences of imprisonment concurrently unless the
 court directs that two or more of the sentences be served
 consecutively. Sentences of imprisonment for offenses not
 charged in the same indictment, information, or affidavit shall
 be served consecutively unless the court directs that two or
 more of the sentences be served concurrently. Any sentence for
 sexual battery as defined in chapter 794 or murder as defined in
 s. 782.04 must be imposed consecutively to any other sentence
 for sexual battery or murder which arose out of a separate
 criminal episode or transaction.

Section 28. For the purpose of incorporating the amendment
 made by this act to section 782.04, Florida Statutes, in a

591-03326-17 2017476c1
 reference thereto, paragraph (i) of subsection (3) of section
 947.146, Florida Statutes, is reenacted to read:
 947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state
 correctional system is projected pursuant to s. 216.136 to
 exceed 99 percent of total capacity, the authority shall
 determine eligibility for and establish a control release date
 for an appropriate number of parole ineligible inmates committed
 to the department and incarcerated within the state who have
 been determined by the authority to be eligible for
 discretionary early release pursuant to this section. In
 establishing control release dates, it is the intent of the
 Legislature that the authority prioritize consideration of
 eligible inmates closest to their tentative release date. The
 authority shall rely upon commitment data on the offender
 information system maintained by the department to initially
 identify inmates who are to be reviewed for control release
 consideration. The authority may use a method of objective risk
 assessment in determining if an eligible inmate should be
 released. Such assessment shall be a part of the department's
 management information system. However, the authority shall have
 sole responsibility for determining control release eligibility,
 establishing a control release date, and effectuating the
 release of a sufficient number of inmates to maintain the inmate
 population between 99 percent and 100 percent of total capacity.
 Inmates who are ineligible for control release are inmates who
 are parole eligible or inmates who:

(i) Are convicted, or have been previously convicted, of
 committing or attempting to commit murder in the first, second,

591-03326-17

2017476c1

or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

Section 29. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in a reference thereto, paragraph (c) of subsection (8) of section 948.06, Florida Statutes, is reenacted to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(8)

(c) For purposes of this section, the term "qualifying offense" means any of the following:

1. Kidnapping or attempted kidnapping under s. 787.01, false imprisonment of a child under the age of 13 under s. 787.02(3), or luring or enticing a child under s. 787.025(2) (b) or (c).

2. Murder or attempted murder under s. 782.04, attempted felony murder under s. 782.051, or manslaughter under s. 782.07.

3. Aggravated battery or attempted aggravated battery under s. 784.045.

4. Sexual battery or attempted sexual battery under s.

591-03326-17

2017476c1

794.011(2), (3), (4), or (8) (b) or (c).

5. Lewd or lascivious battery or attempted lewd or lascivious battery under s. 800.04(4), lewd or lascivious molestation under s. 800.04(5) (b) or (c) 2., lewd or lascivious conduct under s. 800.04(6) (b), lewd or lascivious exhibition under s. 800.04(7) (b), or lewd or lascivious exhibition on computer under s. 847.0135(5) (b).

6. Robbery or attempted robbery under s. 812.13, carjacking or attempted carjacking under s. 812.133, or home invasion robbery or attempted home invasion robbery under s. 812.135.

7. Lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person under s. 825.1025.

8. Sexual performance by a child or attempted sexual performance by a child under s. 827.071.

9. Computer pornography under s. 847.0135(2) or (3), transmission of child pornography under s. 847.0137, or selling or buying of minors under s. 847.0145.

10. Poisoning food or water under s. 859.01.

11. Abuse of a dead human body under s. 872.06.

12. Any burglary offense or attempted burglary offense that is either a first degree felony or second degree felony under s. 810.02(2) or (3).

13. Arson or attempted arson under s. 806.01(1).

14. Aggravated assault under s. 784.021.

15. Aggravated stalking under s. 784.048(3), (4), (5), or (7).

16. Aircraft piracy under s. 860.16.

591-03326-17

2017476c1

1337 17. Unlawful throwing, placing, or discharging of a
 1338 destructive device or bomb under s. 790.161(2), (3), or (4).
 1339 18. Treason under s. 876.32.
 1340 19. Any offense committed in another jurisdiction which
 1341 would be an offense listed in this paragraph if that offense had
 1342 been committed in this state.
 1343 Section 30. For the purpose of incorporating the amendment
 1344 made by this act to section 782.04, Florida Statutes, in a
 1345 reference thereto, subsection (1) of section 948.062, Florida
 1346 Statutes, is reenacted to read:
 1347 948.062 Reviewing and reporting serious offenses committed
 1348 by offenders placed on probation or community control.—
 1349 (1) The department shall review the circumstances related
 1350 to an offender placed on probation or community control who has
 1351 been arrested while on supervision for the following offenses:
 1352 (a) Any murder as provided in s. 782.04;
 1353 (b) Any sexual battery as provided in s. 794.011 or s.
 1354 794.023;
 1355 (c) Any sexual performance by a child as provided in s.
 1356 827.071;
 1357 (d) Any kidnapping, false imprisonment, or luring of a
 1358 child as provided in s. 787.01, s. 787.02, or s. 787.025;
 1359 (e) Any lewd and lascivious battery or lewd and lascivious
 1360 molestation as provided in s. 800.04(4) or (5);
 1361 (f) Any aggravated child abuse as provided in s.
 1362 827.03(2)(a);
 1363 (g) Any robbery with a firearm or other deadly weapon, home
 1364 invasion robbery, or carjacking as provided in s. 812.13(2)(a),
 1365 s. 812.135, or s. 812.133;

Page 65 of 68

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591-03326-17

2017476c1

1366 (h) Any aggravated stalking as provided in s. 784.048(3),
 1367 (4), or (5);
 1368 (i) Any forcible felony as provided in s. 776.08, committed
 1369 by a person on probation or community control who is designated
 1370 as a sexual predator; or
 1371 (j) Any DUI manslaughter as provided in s. 316.193(3)(c),
 1372 or vehicular or vessel homicide as provided in s. 782.071 or s.
 1373 782.072, committed by a person who is on probation or community
 1374 control for an offense involving death or injury resulting from
 1375 a driving incident.
 1376 Section 31. For the purpose of incorporating the amendment
 1377 made by this act to section 782.04, Florida Statutes, in a
 1378 reference thereto, paragraph (b) of subsection (3) of section
 1379 985.265, Florida Statutes, is reenacted to read:
 1380 985.265 Detention transfer and release; education; adult
 1381 jails.—
 1382 (3)
 1383 (b) When a juvenile is released from secure detention or
 1384 transferred to nonsecure detention, detention staff shall
 1385 immediately notify the appropriate law enforcement agency,
 1386 school personnel, and victim if the juvenile is charged with
 1387 committing any of the following offenses or attempting to commit
 1388 any of the following offenses:
 1389 1. Murder, under s. 782.04;
 1390 2. Sexual battery, under chapter 794;
 1391 3. Stalking, under s. 784.048; or
 1392 4. Domestic violence, as defined in s. 741.28.
 1393 Section 32. For the purpose of incorporating the amendment
 1394 made by this act to section 782.04, Florida Statutes, in a

Page 66 of 68

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

591-03326-17

2017476c1

reference thereto, paragraph (d) of subsection (1) of section 1012.315, Florida Statutes, is reenacted to read:

1012.315 Disqualification from employment.—A person is ineligible for educator certification, and instructional personnel and school administrators, as defined in s. 1012.01, are ineligible for employment in any position that requires direct contact with students in a district school system, charter school, or private school that accepts scholarship students under s. 1002.39 or s. 1002.395, if the person, instructional personnel, or school administrator has been convicted of:

(1) Any felony offense prohibited under any of the following statutes:

(d) Section 782.04, relating to murder.

Section 33. For the purpose of incorporating the amendments made by this act to sections 775.30 and 782.04, Florida Statutes, in a reference thereto, paragraph (g) of subsection (2) of section 1012.467, Florida Statutes, is reenacted to read:

1012.467 Noninstructional contractors who are permitted access to school grounds when students are present; background screening requirements.—

(2)

(g) A noninstructional contractor for whom a criminal history check is required under this section may not have been convicted of any of the following offenses designated in the Florida Statutes, any similar offense in another jurisdiction, or any similar offense committed in this state which has been redesignated from a former provision of the Florida Statutes to one of the following offenses:

Page 67 of 68

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591-03326-17

2017476c1

1. Any offense listed in s. 943.0435(1)(h)1., relating to the registration of an individual as a sexual offender.

2. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and the reporting of such sexual misconduct.

3. Section 394.4593, relating to sexual misconduct with certain mental health patients and the reporting of such sexual misconduct.

4. Section 775.30, relating to terrorism.

5. Section 782.04, relating to murder.

6. Section 787.01, relating to kidnapping.

7. Any offense under chapter 800, relating to lewdness and indecent exposure.

8. Section 826.04, relating to incest.

9. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

Section 34. This act shall take effect October 1, 2017.

Page 68 of 68

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 510

INTRODUCER: Health Policy Committee and Senator Gainer and others

SUBJECT: Grant Program for Rural Hospitals

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Fav/CS
2.	Loe	Williams	AHS	Recommend: Favorable
3.	Loe	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 510 establishes the Florida Rural Hospital Capital Improvement Competitive Grant Program to award funds of up to \$750,000, subject to an appropriation, to eligible rural hospitals through a competitive grant application process. The competitive grant program replaces the Rural Hospital Capital Improvement Grant Program that has not received an appropriation since Fiscal Year 2008-2009.

The competitive grant program will be administered by the Department of Health (DOH). The funds may only be used for the purchase of hospital and medical equipment or infrastructure improvements. To be eligible for grant funds a rural hospital must demonstrate that:

- Grant funds are necessary to maintain or improve the quality of its health care services;
- Grant funds will result in a return on investment to the taxpayers of this state; and
- A satisfactory record-keeping system exists for grant expenditures.

The bill requires DOH to develop criteria for scoring and ranking grant applicants, including:

- The social and economic benefit to the surrounding community;
- The promotion of economic development in the surrounding community;
- The expansion of available services to the underserved populations in the community; and
- The availability of private or public matching funds, or in-kind contributions, for the requested grant funds.

The DOH is required to submit an annual report to the Governor and the Legislature pertaining to grants awarded under the program.

The bill has an indeterminate fiscal impact and is subject to an appropriation. SB 2500, the Senate General Appropriations Act for Fiscal Year 2017-2018, includes an appropriation to implement the competitive grant program established by the bill.

The bill takes effect upon becoming a law.

II. Present Situation:

In 1999, the Legislature enacted s. 395.6061, F.S., to establish a rural hospital capital improvement grant program, in furtherance of its finding that rural hospitals were the nucleus or “backbone” of rural health care systems.¹ The program is a mechanism for rural hospitals to apply for grant funds from the DOH if funds are appropriated for this purpose. Upon application to the DOH, each rural hospital must receive a minimum of \$100,000 annually, if funds are available, for projects to acquire, repair, improve, or upgrade systems, facilities, or equipment.

Section 395.602, F.S., defines a “rural hospital” as a licensed, acute care hospital having 100 or fewer licensed beds, and an emergency room, which is:

- The sole provider in a county with a population density no greater than 100 persons per square mile;
- In a county with a population density no greater than 100 persons per square mile, and at least 30 minutes travel time from another acute care hospital in the same county;
- Supported by a tax district or sub-district whose boundaries encompass a population no greater than 100 persons per square mile;
- Classified by the Centers for Medicare and Medicaid Services (CMS) as a sole community hospital;²
- A hospital with a service area³ that has a population no greater than 100 persons per square mile; or

¹ See s. 395.602(1), F.S.

² A *sole community hospital* is defined by 42 C.F.R. s. 412.92, as a hospital located more than 35 miles from other like hospitals, or it is located in a rural area (as defined in § 412.64) and meets one of the following conditions:

(1) The hospital is located between 25 and 35 miles from other like hospitals and meets one of the following criteria:

- No more than 25 percent of residents who become hospital inpatients or no more than 25 percent of the Medicare beneficiaries who become hospital inpatients in the hospital's service area are admitted to other like hospitals located within a 35-mile radius of the hospital, or, if larger, within its service area;
- The hospital has fewer than 50 beds and the intermediary certifies that the hospital would have met the criteria in paragraph (a)(1)(i) of this section were it not for the fact that some beneficiaries or residents were forced to seek care outside the service area due to the unavailability of necessary specialty services at the community hospital; or
- Because of local topography or periods of prolonged severe weather conditions, the other like hospitals are inaccessible for at least 30 days in each 2 out of 3 years.

(2) The hospital is located between 15 and 25 miles from other like hospitals but because of local topography or periods of prolonged severe weather conditions, the other like hospitals are inaccessible for at least 30 days in each 2 out of 3 years.

(3) Because of distance, posted speed limits, and predictable weather conditions, the travel time between the hospital and the nearest like hospital is at least 45 minutes.

³ *Service area* means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the hospital inpatient discharge database in the Florida Center for Health Information and Transparency at the Agency for Health Care Administration. See s. 408.07 (43)(d), F.S.

- A critical access hospital.⁴

As of January 30, 2017, Florida has 28 rural hospitals.⁵

The rural hospital grant program application must include the following:

- A description of the problem to be solved with the grant funds;
- The strategy proposed to resolve the problem;
- The organizational structure, financial system, and facilities that are essential to the proposed solution;
- The projected longevity of the proposed solution after the grant funds are expended;
- Evidence of participation in a rural health network;⁶
- Evidence that the rural hospital has difficulty in obtaining funding or that funds available for the proposed solution are inadequate;
- Evidence that the grant funds will assist in maintaining or returning the hospital to an economically stable condition or will involve innovative alternatives for discontinued services;
- Evidence of a satisfactory record-keeping system to account for grant fund expenditures within the rural county; and
- A rural health network plan that includes a description of how the plan was developed, the goals of the plan, the links with existing health care providers under the plan, indicators quantifying the hospital's financial well-being, measurable outcome targets, and the current physical and operational condition of the hospital.

Under s. 395.6061, F.S., any rural hospital that completes an application to DOH that contains the above criteria shall receive a minimum of \$100,000. The DOH must consider any information submitted in a grant application to determine eligibility and the amount of the award. None of the individual items in the application by itself may be used to deny grant eligibility.

In administering this grant program, the DOH is required to establish, by rule, criteria for awarding grants for any remaining funds available after each eligible applicant is awarded a minimum of \$100,000. The additional awards must be used exclusively for the support and assistance of rural hospitals. Criteria shall include:

- The level of uncompensated care rendered by the hospital;
- Participation in a rural health network; and
- The proposed use of the grant by the rural hospital to resolve a specific problem.

⁴ A *Critical Access Hospital* is a small rural hospital of 25 beds or less that is reimbursed for 101 percent of the cost of providing services to Medicare patients as a means to stabilize and improve access to hospital care in rural areas. A critical access hospital must provide emergency, outpatient, and limited inpatient services 24 hours a day, and must meet other requirements to support the services provided. The Centers for Medicare and Medicaid Services designates which hospitals are critical access hospitals. See s. 408.07(15), F.S. and Agency for Health Care Administration, *Special Designations*, available at: <http://www.floridahealthfinder.gov/about-ahca/facility-locator-glossary.aspx#topic9> (last viewed Feb. 15, 2017).

⁵ Florida Department of Health, Programs and Services, Rural Health, *Florida Rural Hospital Directory*, available at: <http://www.floridahealth.gov/programs-and-services/community-health/rural-health/index.html>, (last viewed Feb. 15, 2017).

⁶ A *rural health network* is a non-profit legal entity, consisting of rural and urban health care providers, organized to plan and deliver health care services on a competitive basis in a rural area. See s. 381.0406, F.S.

The Rural Hospital Capital Improvement Fund last received an appropriation of \$3 million in nonrecurring funds from the Administrative Trust Fund in the Fiscal Year 2008-2009 General Appropriations Act. The DOH currently has no staff dedicated to this program.⁷

III. Effect of Proposed Changes:

The bill amends s. 395.6061, F.S., declaring that rural hospitals have a limited ability to increase operating revenues, or access other sources of public or private funding, that are needed to replace or maintain high-cost medical equipment, or improve infrastructure. This inability to access alternative funding sources places rural patients' access to quality health care at risk.

The bill requires the DOH to establish and administer the Florida Rural Hospital Capital Improvement Competitive Grant Program and repeals the Rural Hospital Capital Improvement Grant Program. Eligible rural hospitals may apply for grants up to \$750,000, subject to legislative appropriation. In order to be eligible for a grant, a rural hospital must demonstrate that:

- Grant funds are necessary to maintain or improve the quality of its health care services;
- There is a return on investment to the taxpayers of this state; and
- A satisfactory record-keeping system exists for grant expenditures.

The DOH is required to establish, by rule, a competitive grant application process and determine criteria to score and rank applications. The criteria must include, at a minimum:

- The social and economic benefit to the surrounding community;
- The promotion of economic development in the surrounding community;
- The expansion of available services to the underserved populations in the community; and
- The availability of private or public matching funds, or in-kind contributions, for the requested grant funds.

Grant funds are restricted to equipment purchases or facility infrastructure improvements in the rural hospital's service area.

The DOH must provide an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which includes the list of grantees and, for each grantee, includes:

- The amount awarded;
- A brief description detailing what the funds will be used for;
- The anticipated outcomes to be achieved; and
- The return on investment to the taxpayers of this state

The bill takes effect upon becoming a law.

⁷ Email from Paul Runk, Legislative Planning Director, Florida Department of Health (Feb. 14, 2017) (on file with the Senate Committee on Health Policy).

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:

Contingent upon an appropriation, there are currently 28 rural hospitals that could participate in the competitive grant program established by the bill. A rural hospital could receive a grant award up to \$750,000.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact and is subject to an appropriation. SB 2500, the Senate General Appropriations Act for Fiscal Year 2017-2018, includes an appropriation to implement the competitive grant program established by the bill. The DOH would incur costs for additional workload to implement and administer the program; however, due to the grant program being subject to an appropriation, it is unknown at this time whether the additional workload could be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not specify a due date for submitting the annual report.

VIII. Statutes Affected:

This bill substantially amends section 395.6061 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy on February 21, 2017:

The CS adds the requirement for the applicant to demonstrate that a record-keeping system exists for grant expenditures in order to be eligible to compete for a grant award. The CS also removes preferences for grant award decision making, and specifies minimum criteria the DOH is to use in scoring and ranking applicants.

- B. **Amendments:**

None.

By the Committee on Health Policy; and Senators Gainer and Montford

588-01939-17

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A bill to be entitled

An act relating to a grant program for rural hospitals; amending s. 395.6061, F.S.; providing legislative findings and intent; requiring the Department of Health to establish and administer the Florida Rural Hospital Capital Improvement Competitive Grant Program for certain rural hospitals; revising the amount of a grant award; revising grant eligibility; providing criteria for grant application ranking; establishing allowable use of funds; requiring the department to submit an annual report to the Governor and the Legislature; deleting requirements for certain information in grant applications; deleting provisions relating to the disbursement of funds; providing an effective date.

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

Section 1. Section 395.6061, Florida Statutes, is amended to read:

395.6061 Rural hospital capital improvement.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that rural hospitals have limited ability to increase operating revenues or to access other public or private funding sources that are needed to maintain critical infrastructure, including, but not limited to, the replacement of high-cost medical care equipment or improvements to facility infrastructure. Rural hospitals that do not have reasonable access to alternative sources of revenue to pay for critical infrastructure needs are

588-01939-17

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at risk, and patient access, care, and quality are threatened. Therefore, the Legislature finds that it is necessary to establish the Florida Rural Hospital Capital Improvement Competitive Grant Program for eligible rural hospitals to ensure their sustainability.

(2) FLORIDA RURAL HOSPITAL CAPITAL IMPROVEMENT COMPETITIVE GRANT PROGRAM.—The Department of Health shall establish and administer the Florida Rural Hospital Capital Improvement Competitive Grant Program for rural hospitals. Subject to annual appropriation, the department shall establish grant awards up to \$750,000 for each hospital that meets the eligibility requirements in subsection (3). Grants must be made available to eligible rural hospitals based on the competitive grant program and on criteria established by the department.

(3) GRANT ELIGIBILITY.—In order to be eligible for a grant award, a hospital must be a rural hospital, as defined in s. 395.602, and must demonstrate that:

(a) Grant funds are necessary to maintain or improve the quality of its health care services;

(b) There is a return on investment to the taxpayers of this state; and

(c) A satisfactory recordkeeping system will be in place to account for the expenditures of grant funds within the rural county.

(4) AWARD OF GRANTS.—The department shall establish by rule a grant application process and criteria for the evaluation of applications. The department shall score and rank grant applications based on criteria that must include, at a minimum, the following:

588-01939-17

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59 (a) The social and economic benefit to the surrounding
 60 community.
 61 (b) The promotion of economic development in the
 62 surrounding community.
 63 (c) The expansion of available services to the underserved
 64 populations in the community.
 65 (d) The availability of private or public matching funds,
 66 or in-kind contributions, for the requested grant funds.
 67 (5) ALLOWABLE USES OF FUNDS.—Grant awards may be used only
 68 for hospital medical equipment purchases or facility
 69 infrastructure improvements in the rural area serviced by the
 70 grantee.
 71 (6) REPORT.—The department shall provide an annual report
 72 to the Governor, the President of the Senate, and the Speaker of
 73 the House of Representatives which includes the list of grantees
 74 and, for each grantee, the amount awarded, a brief description
 75 detailing what the funds will be used for, the anticipated
 76 outcomes to be achieved, and the return on investment to the
 77 taxpayers of this state. There is established a rural hospital
 78 capital improvement grant program.
 79 ~~(1) A rural hospital as defined in s. 395.602 may apply to~~
 80 ~~the department for a grant. The grant application must provide~~
 81 ~~information that includes:~~
 82 ~~(a) A statement indicating the problem the rural hospital~~
 83 ~~proposes to solve with the grant funds;~~
 84 ~~(b) The strategy proposed to resolve the problem;~~
 85 ~~(c) The organizational structure, financial system, and~~
 86 ~~facilities that are essential to the proposed solution;~~
 87 ~~(d) The projected longevity of the proposed solution after~~

588-01939-17

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88 ~~the grant funds are expended;~~
 89 ~~(e) Evidence of participation in a rural health network as~~
 90 ~~defined in s. 381.0406;~~
 91 ~~(f) Evidence that the rural hospital has difficulty in~~
 92 ~~obtaining funding or that funds available for the proposed~~
 93 ~~solution are inadequate;~~
 94 ~~(g) Evidence that the grant funds will assist in~~
 95 ~~maintaining or returning the hospital to an economically stable~~
 96 ~~condition or that any plan for closure or realignment of~~
 97 ~~services will involve development of innovative alternatives for~~
 98 ~~the discontinued services;~~
 99 ~~(h) Evidence of a satisfactory record keeping system to~~
 100 ~~account for grant fund expenditures within the rural county;~~
 101 ~~(i) A rural health network plan that includes a description~~
 102 ~~of how the plan was developed, the goals of the plan, the links~~
 103 ~~with existing health care providers under the plan, indicators~~
 104 ~~quantifying the hospital's financial well-being, measurable~~
 105 ~~outcome targets, and the current physical and operational~~
 106 ~~condition of the hospital.~~
 107 ~~(2) Each rural hospital as defined in s. 395.602 shall~~
 108 ~~receive a minimum of \$100,000 annually, subject to legislative~~
 109 ~~appropriation, upon application to the Department of Health, for~~
 110 ~~projects to acquire, repair, improve, or upgrade systems,~~
 111 ~~facilities, or equipment.~~
 112 ~~(3) Any remaining funds shall annually be disbursed to~~
 113 ~~rural hospitals in accordance with this section. The Department~~
 114 ~~of Health shall establish, by rule, criteria for awarding grants~~
 115 ~~for any remaining funds, which must be used exclusively for the~~
 116 ~~support and assistance of rural hospitals as defined in s.~~

588-01939-17

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~~395.602, including criteria relating to the level of
uncompensated care rendered by the hospital, the participation
in a rural health network as defined in s. 381.0406, and the
proposed use of the grant by the rural hospital to resolve a
specific problem. The department must consider any information
submitted in an application for the grants in accordance with
subsection (1) in determining eligibility for and the amount of
the grant, and none of the individual items of information by
itself may be used to deny grant eligibility.~~

~~(4) The department shall ensure that the funds are used
solely for the purposes specified in this section. The total
grants awarded pursuant to this section shall not exceed the
amount appropriated for this program.~~

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 Committee on Appropriations

BILL: CS/SB 552

INTRODUCER: Criminal Justice Committee and Senator Bracy

SUBJECT: Child Support

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>CJ</u>	Fav/CS
2. <u>Crosier</u>	<u>Hendon</u>	<u>CF</u>	Favorable
3. <u>Blizzard/Babin</u>	<u>Hansen</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 552 adds a new ground to those already allowed for an obligor to contest a notice of delinquency in support payments issued by the Department of Revenue (department) in circuit court. The obligor may show that he or she has no ability to make payments towards the delinquency due to circumstances that include, but are not limited to:

- Temporary interruption in employment due to a natural disaster.
- Incapacitation as a result of an illness or temporary medical condition.
- Temporary, unexpected involuntary unemployment.

The bill has an insignificant fiscal impact on revenues and expenditures.

The bill takes effect July 1, 2017.

II. Present Situation:

Support

Parents have a duty to support¹ their child until the child turns 18 years of age.² “Public policy favors imposing on parents an obligation to contribute to the child’s support.”³ The obligation exists even if the parents are not married, and can exist when the parents are married, but the child is not the biological child of the husband, or if a person contractually agrees to support the child.⁴

A parent caring for a child can seek a court order for support either through dissolution of marriage or through an order for alimony and support of the child without seeking a dissolution of marriage.⁵ Section 61.30, F.S., sets forth guidelines to determine the appropriate amount of support to be provided. A court is permitted to deviate from the guideline amount “after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent,” but the deviation must be part of a written finding in the support order explaining why the guideline amount is unjust or inappropriate.⁶

Failure to Pay Support

There are several options to enforce a support order, including both civil and criminal remedies. In an enforcement action, “the court must determine whether a valid support order exists, the terms of payment contained in the order, and whether the obligor⁷ has complied with its terms. If a court determines that arrearages are due under a support order, it may also inquire into the reasons why the payments were not made and whether nonpayment can be legally excused.”⁸

Civil remedies include garnishment of the obligor’s wages,⁹ an order for income deduction,¹⁰ suspension or denial of certain business and professional licenses and certificates,¹¹ suspension

¹ Section 61.046(22), F.S., defines “support” as child support when the Department of Revenue is not enforcing the support obligation and it includes spousal support or alimony for the person with whom the child is living when the Department of Revenue is enforcing the support obligation. The definition applies to the use of the term throughout ch. 61, F.S.

² Section 61.29, F.S. *See generally* ss. 744.301 and 744.361, F.S. *See also* 2-33 Florida Family Law s. 33.01 (Parents’ Duty to Support Child).

³ *Mitchell v. Mitchell*, 841 So. 2d 564 570, (Fla. 2nd DCA 2003). In fact, s. 856.04, F.S., provides that it is a third degree felony for a parent to desert his or her child or to withhold from the child the means of support.

⁴ *See* 2-33 Florida Family Law s. 33.01 (Parents’ Duty to Support Child) for a discussion on situations where the duty of providing support arises.

⁵ Section 61.09, F.S.

⁶ Section 61.30(1)(a), F.S.

⁷ Section 61.046(13), F.S., defines “obligor” to mean “a person responsible for making payments pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support.”

⁸ 4-70 Florida Family Law s. 70.23 (Complaint for Enforcement).

⁹ Section 61.12, F.S.

¹⁰ Section 61.1301, F.S.

¹¹ Section 61.13015, F.S.

of the person's driver license and motor vehicle registration,¹² and an order to seek employment or job training.¹³

Specifically related to suspension of a driver license, if an obligor is 15 days delinquent in making a support payment, then the Department of Revenue (DOR) can provide notice to the obligor of the delinquency. The notice must state that the DOR will request the Department of Highway Safety and Motor Vehicles to suspend the driver license within 20 days of the date of the notice from the DOR. There are several ways for an obligor to stop suspension of his or her license, including:

- Paying the delinquency in full;
- Contesting the delinquency notice by filing a petition in circuit court;
- Demonstrating that he or she is on reemployment assistance (unemployment compensation);
- Demonstrating that he or she receives temporary cash assistance; or
- Demonstrating that he or she is disabled and incapable of self-support.¹⁴

If the obligor chooses to contest the delinquency notice in circuit court, the grounds for the petition must be mistake of fact regarding the existence of delinquency or the identity of the obligor. The petition has to be served on the DOR. The court must hear a timely filed petition within 15 days and enter an order resolving the petition within 10 days of the hearing. A timely filed petition stays the notice of delinquency by the DOR until the court enters an order resolving the matter.

The obligor can also petition a court to direct the Department of Highway Safety and Motor Vehicles to issue a license for driving privileges restricted to business purposes only.¹⁵

III. Effect of Proposed Changes:

Section 1 titles the act “The Florida Responsible Parent Act.”

Section 2 amends s. 61.13016, F.S., to provide additional grounds for an obligor to petition the circuit court to contest the notice of delinquency. The obligor can contest the notice by showing that he or she has no ability to make payments towards the delinquency in support payments due to circumstances that include, but are not limited to:

- Temporary interruption in employment due to a natural disaster.
- Incapacitation as a result of an illness or temporary medical condition.
- Temporary, unexpected involuntary unemployment.

Section 3 provides an effective date of July 1, 2017.

¹² Section 61.13016, F.S.

¹³ Section 61.14(5)(b), F.S.

¹⁴ Section 61.13016(1), F.S.

¹⁵ Section 61.13016(2), F.S. The term “a driving privilege restricted to business purposes only” means a driving privilege that is limited to any driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and for medical purposes. Section 322.271(1)(c)1., F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

An obligor who fails to pay child support and is able to show the circumstances provided in the bill will benefit by being able to retain his or her driver license.

C. Government Sector Impact:

The DOR indicates that the bill will have an insignificant fiscal impact on department expenditures.¹⁶

Any impact on the state court system is unknown at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 61.13016 of the Florida Statutes.

¹⁶ DOR, 2017 Agency Legislative Bill Analysis CS/HB 313, March 24, 2017.

IX. Additional Information:

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

CS by Criminal Justice on March 27, 2017:

The committee substitute substantially rewrote the bill. The CS added grounds for an obligor to petition a circuit court to contest a notice of delinquency in support payments. It removed the following provisions:

- Allowing an obligor to demonstrate to the DOR certain conditions in order to stop suspension of his or her driver license.
- Allowing an obligor to avoid being held in contempt of court by demonstrating certain conditions.
- Allowing a court to order an obligor to work release or supervised home confinement without electronic monitoring under certain conditions.
- Requiring the Department of Economic Opportunity to develop and administer a program to provide tax credits to business entities that employ obligors ordered to be placed in work release programs or supervised home confinement without electronic monitoring.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Bracy

591-02927-17

2017552c1

A bill to be entitled

An act relating to child support; creating the "Florida Responsible Parent Act"; amending s. 61.13016, F.S.; providing additional circumstances under which an obligor who fails to pay child support may avoid suspension of his or her driver license and motor vehicle registration; providing an effective date.

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

Section 1. This act may be cited as the "Florida Responsible Parent Act."

Section 2. Subsections (1) and (4) of section 61.13016, Florida Statutes, are amended to read:

61.13016 Suspension of driver licenses and motor vehicle registrations.—

(1) The driver license and motor vehicle registration of a support obligor who is delinquent in payment or who has failed to comply with subpoenas or a similar order to appear or show cause relating to paternity or support proceedings may be suspended. When an obligor is 15 days delinquent making a payment in support or failure to comply with a subpoena, order to appear, order to show cause, or similar order in IV-D cases, the Title IV-D agency may provide notice to the obligor of the delinquency or failure to comply with a subpoena, order to appear, order to show cause, or similar order and the intent to suspend by regular United States mail that is posted to the obligor's last address of record with the Department of Highway

Page 1 of 4

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

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Safety and Motor Vehicles. When an obligor is 15 days delinquent in making a payment in support in non-IV-D cases, and upon the request of the obligee, the depository or the clerk of the court must provide notice to the obligor of the delinquency and the intent to suspend by regular United States mail that is posted to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles. In either case, the notice must state:

(a) The terms of the order creating the support obligation;

(b) The period of the delinquency and the total amount of the delinquency as of the date of the notice or describe the subpoena, order to appear, order to show cause, or other similar order that has not been complied with;

(c) That notification will be given to the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver license and motor vehicle registration unless, within 20 days after the date that the notice is mailed, the obligor:

1.a. Pays the delinquency in full and any other costs and fees accrued between the date of the notice and the date the delinquency is paid;

b. Enters into a written agreement for payment with the obligee in non-IV-D cases or with the Title IV-D agency in IV-D cases; or in IV-D cases, complies with a subpoena or order to appear, order to show cause, or a similar order;

c. Files a petition with the circuit court to contest the delinquency action as provided in subsection (4);

d. Demonstrates that he or she receives reemployment assistance or unemployment compensation pursuant to chapter 443;

e. Demonstrates that he or she is disabled and incapable of

Page 2 of 4

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591-02927-17

2017552c1

self-support or that he or she receives benefits under the federal Supplemental Security Income program or Social Security Disability Insurance program;

f. Demonstrates that he or she receives temporary cash assistance pursuant to chapter 414; or

g. Demonstrates that he or she is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.; and

2. Pays any applicable delinquency fees.

If an obligor in a non-IV-D case enters into a written agreement for payment before the expiration of the 20-day period, the obligor must provide a copy of the signed written agreement to the depository or the clerk of the court. If an obligor seeks to satisfy sub-subparagraph 1.d., sub-subparagraph 1.e., sub-subparagraph 1.f., or sub-subparagraph 1.g. before expiration of the 20-day period, the obligor must provide the applicable documentation or proof to the depository or the clerk of the court.

(4)(a) The obligor may, within 20 days after the mailing date on the notice of delinquency or noncompliance and intent to suspend, file in the circuit court a petition to contest the notice of delinquency or noncompliance and intent to suspend on the ground of:

1. Mistake of fact regarding the existence of a delinquency; ~~or~~

2. Mistake of fact regarding the identity of the obligor;

or

591-02927-17

2017552c1

3. No ability to make payments toward the delinquency due to circumstances including, but not limited to, temporary interruption in employment as the result of a natural disaster, incapacitation as the result of an illness or temporary medical condition, or temporary unexpected involuntary unemployment.

(b) The obligor must serve a copy of the petition on the Title IV-D agency in IV-D cases or depository or clerk of the court in non-IV-D cases. When an obligor timely files a petition to contest, the court must hear the matter within 15 days after the petition is filed. The court must enter an order resolving the matter within 10 days after the hearing, and a copy of the order must be served on the parties. The timely filing of a petition to contest stays the notice of delinquency and intent to suspend until the entry of a court order resolving the matter.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 772

INTRODUCER: Education Committee and Senator Rouson

SUBJECT: Assistive Technology Devices

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Androff	Graf	ED	Fav/CS
2.	Sikes	Elwell	AED	Recommend: Favorable
3.			AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 772 revises provisions related to the use of assistive technology devices by students with disabilities. Specifically, the bill:

- Recognizes that access to and use of the assistive technology device is essential for a student moving from school to home and community;
- Allows an individualized plan for employment to be one of the plans that may serve as the basis for a student to retain an assistive technology device through a transition; and
- Adds the Office of Independent Education and Parental Choice within the Florida Department of Education to the group of educational entities required to enter into interagency agreements with specified agencies, as appropriate, for the transaction of assistive technology devices.

The bill has no impact on state funds. However, the bill may increase costs on the school districts to the extent school districts will be required to purchase additional assistive technology devices for utilization by students with disabilities at home and in the community.

The bill takes effect July 1, 2017.

II. Present Situation:

Federal and state laws provide for accommodations to assist students with disabilities.

Assistive Technology Devices

Federal law defines an assistive technology device as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.¹ The term does not include a medical device that is surgically implanted or the replacement of such device.² Federal regulations require each federal public agency to ensure that assistive technology devices are made available to a child with a disability under certain circumstances.³ Moreover, in order to receive federal assistance under the Assistive Technology Act, a state must assure the U.S. Secretary of Education that the state complies with the federal regulations.⁴

Florida law defines assistive technology devices as manual wheelchairs, motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to in effect speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability.⁵

Special Education Services

Special education services (SES) means specially designed instruction and related services that are provided to exceptional students.⁶ Florida law specifies the disabilities that qualify a student for SES.⁷ The U.S. Individuals with Disabilities Education Act (IDEA) requires school districts to make a free appropriate public education (FAPE) available to such students ages 3 through 21.⁸ A school district, at its discretion, may provide services to eligible children with disabilities below 3 years of age.⁹ A FAPE must include special education and related services¹⁰ that are

¹ 20 U.S.C. s. 1401(1)(A).

² *Id.* at 1401(1)(B).

³ 34 C.F.R. s. 300.105(a).

⁴ *Id.* at 300.101.

⁵ Section 427.802(1), F.S. A person with a disability means any person who has one or more permanent physical or mental limitations that restrict his or her ability to perform the normal activities of daily living and impede his or her capacity to live independently. Section 427.802(2), F.S.

⁶ Section 1003.01(3)(b), F.S. Exceptional student means any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; another health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including but not limited to dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules pursuant to law. Section 1003.01(3)(a), F.S.

⁷ Section 1003.01(3)(a)-(b), F.S.

⁸ 20 U.S.C. s. 1400(d)(1)(A); 24 C.F.R. s. 300.101; Rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

⁹ Rules 6A-6.0331 and 6A-6.03026, F.A.C.

¹⁰ Related services means “transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes.” Related services

provided by the public school system at no cost to the parent, that meet the standards of the state, and that are in conformity with the student's individual education plan (IEP).¹¹

Individual Education Plans

For each eligible child with a disability served by a school district, or other state agency that provides special education and related services directly, by contract, or through other arrangements, an individual education plan (IEP) or individual family support plan must be developed, reviewed, and revised.¹²

An IEP team must meet to develop a plan for the student's needs within 30 days of determining a student's eligibility for SES.¹³ The multidisciplinary IEP team includes school and district staff and other experts, if necessary.¹⁴ Parents also participate in the plan development, which may not be implemented without parental consent to a student's initial placement into the SES program.¹⁵

The IEP sets forth a child's academic achievement and functional performance, describes how the child will be included in the general education curriculum, establishes annual goals for the child and describes how those goals will be measured, directs what special education and related services are needed, describes how the child will be appropriately assessed, and determines what accommodations may be appropriate for the child's instruction and assessment.¹⁶ All IEP teams must consider whether a student with disability requires assistive technology devices and services.¹⁷

Individualized Plan for Employment

Under Florida law, a person with a disability¹⁸ is eligible for vocational rehabilitation (VR) services if the person requires VR services to prepare for, engage in, or retain gainful employment.¹⁹ The Division of Vocational Rehabilitation (Division) is responsible for determining the eligibility of an individual for VR services.²⁰ If the Division determines that an individual is eligible for VR services, the division must:

- Complete an assessment for determining the eligibility and vocational rehabilitation needs and
- Ensure that an individualized plan for employment (IPE) is prepared.

An IPE includes a "comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported

also include health services and school nurse services, social work services in schools, and parent counseling and training. 34 C.F.R. s. 300.34(a).

¹¹ 34 C.F.R. s. 300.17; Rule 6A-6.03411(1)(p), F.A.C.

¹² Rule 6A-6.03028(3), F.A.C.

¹³ Rules 6A-6.03028(3)(f) and 6A-6.030190(6)(b), F.A.C.

¹⁴ Rules 6A.03028(3)(c), 6A-6.030191(3), and 6A-6.03029(6), F.A.C.

¹⁵ Rule 6A-6.0331(9), F.A.C.

¹⁶ Rules 6A-6.03028(3)(h), 6A-6.03029(3), and 6A-6.030191(4), F.A.C.

¹⁷ 34 C.F.R. s. 300.324(a)(2)(v); Rule 6A-6.03028(3)(g)11., F.A.C.

¹⁸ Disability means "a physical or mental impairment that constitutes or results in a substantial impediment to employment." Section 413.20(7), F.S.

¹⁹ Section 413.30(1), F.S.

²⁰ *Id.* at (4).

employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services.”²¹ The IPE must be jointly developed and by a VR counselor or coordinator and the eligible individual, or in an appropriate case, a parent, family member, guardian, advocate, or authorized representative to the individual.²² The division is responsible for ensuring that each IPE is customized to the employment outcome of eligible individuals, consistent with federal law and the unique strengths, recourses, priorities, concerns, abilities and capabilities such individuals.²³ Each IPE must be reviewed annually and revised, as needed.²⁴

Use and Transfer of Devices

Federal law requires the school a student attends to meet the student’s IEP requirements regarding assistive technology.²⁵ If the student moves from one school to another school within the district, the assistive technology device must be provided at the new school.²⁶ The same device does not necessarily need to follow the student, but the transfer of assistive devices from school to school is encouraged because students benefit from continued use of the same device.²⁷ If the student moves to another district, federal regulation provides that agencies or districts make the equipment available for use in other districts, until the new district adopts the student’s prior IEP or executes a new IEP.²⁸

Whether or not a student may take his or her assistive technology device home is determined on an individual basis and should be specified in the IEP.²⁹ If the student requires assistive technology in order to complete homework assignments or practice skills that require the device, such as communication or socialization, it should be specified in the IEP.³⁰ Not all assistive technology may be required for home use.³¹ Use of the assistive technology device over the summer is also determined on an individual basis and should be specified in the IEP.³²

The federal IDEA and regulations specify that it is the school’s responsibility to provide transition services.³³ The transition planning must begin by age 14 or grade 8, whichever occurs first.³⁴ A student’s IEP should include a statement of assistive technology needed under transition services, including a statement indicating agency responsibilities and linkages, if

²¹ Section 413.20(3), F.S.

²² Section 413.30(5)(a), F.S.; Rule 6A-25.007, F.A.C.

²³ Section 413.30(5)(b), F.S.

²⁴ *Id.* at (5)(c).

²⁵ 34 C.F.R. s. 300.323(e).

²⁶ *Id.*

²⁷ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 13-14.

²⁸ 34 C.F.R. s. 300.323(e).

²⁹ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 12.

³⁰ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 12.

³¹ *Id.*

³² *Id.*

³³ 34 C.F.R. s. 300.320(b).

³⁴ Rule 6A-6.03028(3)(b)4., F.A.C.

appropriate.³⁵ It is the school district's responsibility to provide a plan for the transition of assistive technology as the student prepares for postsecondary education, vocational placement, independent living and community experiences.³⁶ If the student will benefit from continued use of the same device, the transition of technology from school to the postschool setting is encouraged.³⁷ The IEP team must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services, such as assistive technology services and devices.³⁸ However, if the participating agency fails to provide the transition services and assistive technology defined in the IEP, the school district must reconvene the IEP team to identify alternative strategies in order to meet the transition objective.³⁹

Upon request by a student or his or her parent, the district may transfer assistive technology to the postsecondary setting.⁴⁰ The transfer must follow the proper interagency agreement procedures, with the receiving agency documenting support of the equipment.⁴¹

Interagency Agreements

Certain agencies are required by law to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan, or individual education plan.⁴² The interagency agreements provide the framework for ensuring that students with disabilities, their families, educators, and employers are informed about the utilization and coordination of assistive technology devices and services to help such students transition from school to postschool.⁴³ The agreements also ensure that all agencies are informed about the needed assistive technology, the content of the transition plan, and the postschool support required to meet student needs.⁴⁴

The Florida Interagency Agreement for the Transfer of Assistive Technology was entered in September of 2006, between the following agencies:⁴⁵

- Florida Infants and Toddlers early Intervention Program (Early Steps) of the Division of Children's Medical Services of the Department of Health;
- The Division of Blind Services of the Department of Education;
- The Division of Vocational Rehabilitation of the Department of Education;
- The Voluntary Prekindergarten Education Program of the Department of Education and the Agency for Workforce Innovation; and

³⁵ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 14.

³⁶ *Id.*

³⁷ *Id.*

³⁸ 34 C.F.R. s. 300.321(b)(3); s. 1003.575, F.S.

³⁹ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 14.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Section 1003.575, F.S.

⁴³ *Id.*

⁴⁴ Section 1003.575, F.S.

⁴⁵ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013).

- The Bureau of Exceptional Education and Student Services of the Department of Education.

III. Effect of Proposed Changes:

This bill revises provisions related to the use of assistive technology devices by students with disabilities. Specifically, the bill:

- Recognizes that access to and use of the assistive technology device is essential for a student moving from school to home and community;
- Allows an individualized plan for employment to be one of the plans that may serve as the basis for a student to retain an assistive technology device through a transition; and
- Adds the Office of Independent Education and Parental Choice within the Florida Department of Education to the group of educational entities required to enter into interagency agreements with specified agencies, as appropriate, for the transaction of assistive technology devices.

While an individual education plan (IEP) may provide for the use of assistive technology devices by students with disabilities at home after school hours, it is unclear if such authorized use is consistently reflected in the IEP for all students who are eligible to receive assistive technology devices and services. The bill codifies the use of such devices at home and in the community. As a result, students may be able to have access to and use such devices after school hours, including during the weekend and over the summer.

The bill also allows an IPE to serve as the basis for issuing an assistive technology device. Adding the IPE may facilitate coordination with the Division of Vocational Rehabilitation regarding the transaction of assistive technology devices. The addition of the IPE may also enable a student to retain his or her assistive technology device in the employment or postschool environment.

Additionally, the bill adds the Office of Independent Education and Parental Choice (Office) to the list of agencies that must enter interagency agreements, as appropriate, to ensure that an assistive technology device issued to a student remains with the student through the continuum from home to school to postschool. As a result, the Office may be able to coordinate with specified agencies to facilitate the transition of students with disabilities who participate in school choice from school to postschool.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. However, according to the Florida Department of Education, CS/SB 772 may have an indeterminate fiscal impact for the school districts to the extent school districts will be required to purchase additional assistive technology devices for utilization by students with disabilities at home and in the community.⁴⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.575 of the Florida Statutes.

IX. Additional Information:

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

CS by Education on March 21, 2017:

Replaces the reference to individual work plan with individualized plan for employment, as a plan that may serve as the basis for issuing an assistive technology device to a student.

B. Amendments:

None.

⁴⁶ Florida Department of Education, *SB 772 Analysis* (2017), at 4.

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

By the Committee on Education; and Senator Rouson

581-02686-17

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A bill to be entitled

An act relating to assistive technology devices;
amending s. 1003.575, F.S.; revising provisions
relating to the accessibility and use of assistive
technology devices by persons with disabilities;
providing an effective date.

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

Section 1. Section 1003.575, Florida Statutes, is amended
to read:

1003.575 Assistive technology devices; findings;
interagency agreements.—Accessibility, utilization, and
coordination of appropriate assistive technology devices and
services are essential as a young person with disabilities moves
from early intervention to preschool, from preschool to school,
from one school to another, ~~and~~ from school to employment or
independent living, and from school to home and community. If an
individual education plan team makes a recommendation in
accordance with State Board of Education rule for a student with
a disability, as defined in s. 1003.01(3), to receive an
assistive technology assessment, that assessment must be
completed within 60 school days after the team's recommendation.
To ensure that an assistive technology device issued to a young
person as part of his or her individualized family support plan,
individual support plan, individualized plan for employment, or
~~an~~ individual education plan remains with the individual through
such transitions, the following agencies shall enter into
interagency agreements, as appropriate, to ensure the

Page 1 of 2

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transaction of assistive technology devices:

(1) The Early Steps Program in the Division of Children's
Medical Services of the Department of Health.

(2) The Division of Blind Services, the Bureau of
Exceptional Education and Student Services, the Office of
Independent Education and Parental Choice, and the Division of
Vocational Rehabilitation of the Department of Education.

(3) The Voluntary Prekindergarten Education Program
administered by the Department of Education and the Office of
Early Learning.

Interagency agreements entered into pursuant to this section
shall provide a framework for ensuring that young persons with
disabilities and their families, educators, and employers are
informed about the utilization and coordination of assistive
technology devices and services that may assist in meeting
transition needs, and shall establish a mechanism by which a
young person or his or her parent may request that an assistive
technology device remain with the young person as he or she
moves through the continuum from home to school to postschool.

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

Page 2 of 2

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 784 (314566)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Transportation Committee; and Senator Gainer and others

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: April 24, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Jones	Miller	TR	Fav/CS
2. Wells	Pitts	ATD	Recommend: Fav/CS
3. Wells	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 784 makes numerous changes relating to the Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill:

- Creates a definition of an autocycle, requires occupants of autocycles to wear safety belts, and exempts drivers of autocycles from being required to have a motorcycle endorsement or motorcycles license, or from completing motorcycle knowledge and skills testing in order to operate the autocycle;
- Allows volunteer firefighters to use red and white, in addition to red, warning signals;
- Updates various commercial motor vehicle (CMV) regulations to address compatibility issues with federal law;
- Allows a person without a driver license to operate an autonomous vehicle in autonomous mode if the person cannot take control of the vehicle;
- Applies certain insurance coverage requirements, should legislation addressing insurance for transportation network companies (TNCs) become law, to autonomous vehicles used by TNCs to provide transportation, regardless of whether a human operator is physically present in the vehicle when the ride occurs;
- Authorizes a board of county commissioners to require, by ordinance, that the clerk of court collect an additional \$5 with each *criminal*, instead of *civil* traffic penalty, which is used to fund driver education programs in schools;

- Changes “construction zone” to “work zone” for the purpose of double speeding penalties in such zones if required signs are posted and workers are present;
- Requires interstate charter buses to register as apportionable vehicles;
- Changes references to the organization “Prevent Blindness Florida” to “Preserve Vision Florida”;
- Requires tax collectors perform the same motor vehicle registration and driver license services for non-county residents as they do for their home county residents;
- Effective July 1, 2018, expands the allowable operations and authorized agents of the DHSMV electronic filing system;
- Increases the time-frame apportionable vehicles must replace their license plates from annually to every five years;
- Allows a person driving a rental vehicle who is stopped by a law enforcement officer or agent of the DHSMV to show an electronic copy of a rental agreement;
- Revises the eligibility requirement for the agricultural restricted license plate to allow certain agricultural trucks that operate within the state, instead of within a 150-mile radius of the truck’s home address, be eligible for the restricted license plate;
- Removes specialty license plates from statute that have been discontinued by the DHSMV;
- Authorizes a trailer to be considered a motor vehicle for purposes of receiving specified license plates;
- Creates a Purple Heart motorcycle license plate and a Bronze Star license plate;
- Clarifies the definition of motor vehicle dealers and motor vehicle brokers;
- Makes numerous changes to transporter license plates, including requiring more information from applicants for transporter plates and adding penalties for the misuse of such plates;
- Requires DHSMV work with the Agency for State Technology to provide digital proof of driver licenses;
- Allows a person diagnosed with posttraumatic stress disorder (PTSD) or traumatic brain injury (TBI) to be eligible to receive a “D” designation on his or her identification (ID) card;
- Increases the amount of time a Florida Highway Patrol (FHP) trooper must stay employed with the FHP to avoid having to reimburse training costs from two years to three years;
- Revises DHSMV reporting requirements relating to driver license suspensions for persons who do not meet school attendance requirements;
- Authorizes tax collectors to retain fees or a portion of fees when they administer subsequent driver license examinations or reinstate licenses;
- Allows the DHSMV to issue a no-fee replacement identification card upon proof to the DHSMV that the card was stolen;
- Provides the option for expedited shipping of a driver license or identification card;
- Removes an obsolete provision relating to specialty driver licenses; and
- Allows for-hire passenger vehicles be insured by an eligible surplus lines insurer and modifies certain insurance limits;
- Prohibits a person from using any device prohibited by the Federal Communications Commission which would cause interference with the legal use of a global positioning system to track vehicles; and
- Amends numerous cross-references to reflect changes made by the bill.

The bill is intended to address a broad range of federal compliance, customer service and administrative efficiency issues; however, these changes have various indeterminate impacts on state revenues and expenditures.

The Revenue Estimating Conference (REC) reviewed identical sections of the bill on March 10, 2017.¹ The REC estimates that replacing stolen identification cards at no charge to a customer (section 36 of the bill) will have an insignificant negative impact to the General Revenue Fund until Fiscal Years 2020 through 2022, when it will have a negative impact of \$100,000 annually.

The REC estimates that allowing local tax collectors to retain fees or portions of fees for administering subsequent driver license examinations or reinstating licenses (sections 34 and 37) will shift approximately \$5 million from the Highway Safety Operating Trust Fund each year to the local tax collectors.

Additionally, the REC estimates, authorizing expedited shipping fees for driver licenses and identification cards (section 37) will have an indeterminate impact in revenues to the extent that expedited shipping is requested.

Except otherwise provided, the bill takes effect October 1, 2017.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of the Proposed Changes.

III. Effect of Proposed Changes:

Autocycles (Sections 1, 6, 11, 29, and 34)

Present Situation

An autocycle is commonly defined as a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.² The term “autocycle” is not defined in federal law; however, as of February 2016, at least 22 states have created statutory definitions for an autocycle.³ Currently, the DHSMV registers autocycles as motorcycles.⁴ This means operators of autocycles, generally, are not required to maintain insurance⁵ or wear safety belts⁶, but are required to:

¹ Office of Economic and Demographic Research, Revenue Estimating Conference, *Highway Safety Fees – HB 545* (Mar. 10, 2017), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0310.pdf at p. 22-30 (last visited Mar. 15, 2017).

² American Association of Motor Vehicle Administrators (AAMVA), *Best Practices for the Regulation of Three-Wheel Vehicles* (October 2013), available at <http://www.aamva.org/3wheelvehiclebp/> at p. 4 (last visited Mar. 22, 2017).

³ National Conference of State Legislatures (NCSL), *Traffic Safety Trends – State Legislative Action 2015* (Feb. 2016), available at http://www.ncsl.org/Documents/transportation/2015_Traffic_Safety_Trends.pdf at p. 23 (last visited Mar. 22, 2017).

⁴ DHSMV Technical Advisory RS/TL16-015, *Registering the Slingshot* (June 20, 2016), available at https://www.flhsmv.gov/dmv/bulletins/2016/ta_rstl16-015.pdf

⁵ See ch. 324, F.S., on Motor Vehicle Financial Responsibility.

⁶ See s. 316.614(3)(a)5., F.S.

- Maintain a motorcycle endorsement or motorcycle license;⁷
- Wear a helmet, unless over 21 years of age with at least \$10,000 of medical insurance or riding in an enclosed cab;⁸ and
- Wear eye protection⁹;

Since autocycles share more characteristics with passenger motor vehicles than motorcycles, some of the motorcycle requirements, or lack of requirements, may or may not be necessary for autocycles. For example, studies suggest a motorcycle endorsement or motorcycle license should not be required for operating an autocycle.¹⁰ Motorcycle rider courses primarily focus on operating a motorcycle in which the operator sits astride the saddle and uses handlebars, while using his or her body weight, balance, and position on the motorcycle to corner or stop; however, operating an autocycle requires mechanics similar to a passenger motor vehicle. At least 21 states do not require a motorcycle endorsement or motorcycle license to operate an autocycle.¹¹

There is little research or crash data available concerning the safety of autocycles. Since autocycles fall under the definition of a motorcycle they are only required to meet the federal safety standards required for motorcycles; thus, autocycles are not required to meet the crash safety standards or occupant safety criteria that a regular passenger motor vehicle is required to meet. The National Highway Traffic Safety Administration (NHTSA) has concerns that the overall appearance of autocycles, being closer to the appearance of a car than a motorcycle, may cause people to think autocycles are as safe as passenger motor vehicles.¹²

Effect of Proposed Changes

Section 1 amends s. 316.003, F.S., defining an autocycle as a three-wheel motorcycle that has two wheels in the front and one wheel in the back, is equipped with a roll cage or roll hoops, safety belts for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it and is manufactured by a National Highway Traffic Safety Administration (NHTSA) registered manufacturer in accordance with the applicable federal motorcycle safety standards.

Sections 1 and 11 include an autocycle in the definition of a motorcycle. Also, the definition of motorcycle is amended to exempt a vehicle in which the operator is enclosed by a cabin unless the vehicle meets the requirements set forth by the NHTSA for a motorcycle.

Section 6 amends s. 316.614, F.S., to require that the operator, front seat passenger, and any passenger under the age of 18 years old in an autocycle wear a safety belt.

Sections 29 and 34 amend ss. 322.03 and 322.12, F.S., respectively, to exempt operators of an autocycle from needing a motorcycle endorsement or motorcycle license, and from needing to complete motorcycle skills and motorcycle knowledge testing to operate an autocycle.

⁷ Section 322.03(4), F.S.

⁸ Section 316.211, F.S.

⁹ Section 316.211(2), F.S.

¹⁰ AAMVA, *supra* note 1 at p. 5 and 9

¹¹ NCSL, *supra* note 2

¹² AAMVA, *supra* note 2 at p. 2

Volunteer Firefighters – Red and White Warning Signals (Sections 2, 3, and 28)

Present Situation

Section 316.2397, F.S., authorizes vehicles of the fire department and fire patrol, including vehicles of permitted volunteer firefighters, to show or display red warning signals. Specifically, active volunteer firefighters are authorized to display such red lights or warning signals if the volunteer firefighter has secured a written permit from the chief executive officers of the firefighting organization allowing the use of such signals. This permit is required to be carried at all times while the firefighter displays the red warning signals. The active firefighter may display red lights on their privately owned vehicle while en route to a fire or other emergency in the line of duty, or while en route to the fire station for the purpose of proceeding to a fire or other emergency.¹³

Section 316.2398, F.S., requires that the warning signals must be visible from the front and rear of the vehicle, and requires:

- No more than two red warning signals may be displayed; and
- No inscription of any kind may appear across the face of the lens of the warning signal.

A violation of these requirements is a nonmoving violation, punishable as provided in ch. 318, F.S.¹⁴, and any volunteer firefighter who violates these requirements shall be dismissed from membership in the firefighting organization.¹⁵

Effect of Proposed Changes

Sections 2, 3, and 19 amend ss. 316.2397, 316.2398, and 322.01, F.S., respectively, to provide that volunteer firefighters may use red or *red and white* warning signals where provided by law. Additionally, the bill removes the prohibition on the number of warning signals a volunteer firefighter or medical staff may use; instead, the responding agency may determine the number of warning signals that may be displayed on the responding vehicle to maintain public safety and the safety of the responding vehicle occupants.

Wrecker Lights (Section 2)

Present Situation

Section 316.2397, F.S., requires wreckers use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and they may use such lights while towing a vehicle on wheel lifts, slings, or under reach if the operator deems such lights necessary. Additionally, a flatbed, car carrier, or rollback may not use such lights when hauling a vehicle unless it creates a hazard to other motorists because of protruding objects.

¹³ Section 316.2398(1), F.S.

¹⁴ Chapter 318.18, F.S., provides that a nonmoving traffic violation is a \$30 penalty plus court costs. This could result in a penalty and costs totaling up to \$108.

¹⁵ Section 316.2398(5), F.S.

Effect of Proposed Changes

Section 2 amends s. 316.2397, F.S., to remove the prohibition against flatbeds, car carriers, or rollbacks from using amber rotating or flashing lights when hauling vehicles. The section requires such vehicles, when registered as wreckers pursuant to s. 320.08(5)(d) or (e), F.S., use amber rotating or flashing lights while performing recoveries and loading on the roadside, and authorizes the use of such lights if the operator of the wrecker deems such lights necessary.

Federal Motor Carrier Safety Administration Compatibility (Section 4)

Present Situation

The Federal Motor Carrier Safety Administration (FMCSA) was established within the United States Department of Transportation on January 1, 2000. Its primary mission is to prevent commercial motor vehicle (CMV)-related fatalities and injuries.¹⁶

Section 316.302, F.S., provides that all owners and drivers of CMVs¹⁷ operated on the public highways of this state while engaged in *interstate* commerce are subject to the rules and regulations contained in the following parts of the Federal Motor Carrier Safety Regulations¹⁸:

- Part 382, Controlled Substance and Alcohol Use and Testing;
- Part 385, Safety Fitness Procedures;
- Part 390, General Federal Motor Carrier Safety Regulations;
- Part 391, Qualifications of Drivers;
- Part 392, Driving of Commercial Motor Vehicles;
- Part 393, Parts and Accessories Necessary for Safe Operation;
- Part 395, Hours of Service of Drivers;
- Part 396, Inspection, Repair, and Maintenance; and
- Part 397, Transportation of Hazardous Materials; Driving and Parking Rules.

Owners and drivers of CMVs engaged in *intrastate* commerce are subject to the same rules and regulations, unless otherwise provided in s. 316.302, F.S., as such rules and regulations existed on December 31, 2012.¹⁹ To remain compatible with the Federal Motor Carrier Safety Regulations, states generally have up to three years from the effective date of new federal requirements to adopt and enforce such requirements.²⁰ States that remain incompatible risk losing federal funding. A 2007 Florida State Motor Carrier Safety Assistance Program (MCSAP) review found that the Florida Statutes contain multiple compatibility issues.²¹

¹⁶ FMCSA website, *About Us*, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited Feb. 23, 2017).

¹⁷ Section 316.003(12), F.S., defines “commercial motor vehicle” as “any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle: (a) Has a gross vehicle weight rating of 10,000 pounds or more; (b) Is designed to transport more than 15 passengers, including the driver; or (c) Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.).”

¹⁸ 49 C.F.R. ch. III, subchapter B.

¹⁹ Section 316.302(1)(b), F.S.

²⁰ 49 C.F.R. *Appendix A to Part 355 – Guidelines for the Regulatory Review – State Determinations* (2016)

²¹ 2007 Florida State MCSAP Review, *Summary Findings, Recommendations, and Noteworthy Practices* (June 2007) (on file with the Senate Committee on Transportation).

2007 Florida State MCSAP Review Findings

Section 316.302(1)(b), F.S., provides an exception from 49 C.F.R. s. 390.5 as it relates to the definition of a bus, which is defined as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.” Florida law excludes taxicabs from the definition of a bus.²² The MCSAP Review noted that Florida Statutes “exempting, from the definition of a bus, taxicabs as it applies to the intrastate private transportation of passengers, is not compatible” with Federal law.²³

Federal law prohibits certain lamps and reflective devices from being obscured on CMVs.²⁴ However, s. 316.215(5), F.S., provides an exception from this requirement for front-end loading collection vehicles that are engaged in collecting solid waste or recyclable or recovered materials, and are being operated at less than 20 miles per hour with hazard-warning lights activated. According to the MCSAP review, federal law provides no such exemption.²⁵

Section 316.302(2)(d), F.S., provides an exemption from compliance with 49 C.F.R. s. 395.8, requiring driver’s record of duty status, for drivers of CMVs if the driver:

- Is operating solely in intrastate commerce;
- Is not transporting any hazardous materials in amounts that require placarding²⁶;
- Is within 150-air miles of the vehicle’s base location; and
- Complies with specific federal requirements relating to hours of service.²⁷

Additionally, state law provides that if a driver is not released from duty within 12 hours of arriving on duty, the motor carrier must maintain documentation of the driver’s driving times throughout the duty period. The MCSAP review found that the exemption and alternate records requirement contained in s. 316.302(2)(d), F.S., does not comply with federal regulations because the federal exemption also requires that the driver return to the work reporting location and is released from work within 12 consecutive hours.²⁸

Federal law allows a state to exempt a CMV from all or part of its laws or regulations relating to intrastate commerce if the vehicle’s gross vehicle weight, gross vehicle weight rating, gross combined weight, or gross combined weight rating is less than 26,001, and the vehicle is not:

- Transporting hazardous materials requiring a placard; or
- Designed or used to transport 16 or more people, including the driver.²⁹

However, s. 316.302(2)(f), F.S., provides exemptions from federal laws or regulations for a person who operates a CMV solely in intrastate commerce, having a *declared* gross vehicle weight of less than 26,001 pounds, and who is not transporting hazardous materials in an amount that requires placarding, or who is transporting petroleum products. According to the MCSAP

²² Section 316.003(6), F.S.

²³ 2007 Florida State MCSAP Review, *supra* note 20 at p. 2, *FL/FI-1*.

²⁴ 49 C.F.R. s. 393.9(b)

²⁵ 2007 Florida State MCSAP Review, *supra* note 20 at p. 4, *FL/FI-7*.

²⁶ Pursuant to 49 C.F.R. part 172

²⁷ As provided in 49 C.F.R. s. 395.1(e)(1)(iii) and (v).

²⁸ 2007 Florida State MCSAP Review, *supra* note 20 at p. 5, *FL/FI-8*.

²⁹ 49 C.F.R. s. 350.341(a)

Review, the State interprets this statute as exempting such vehicles transporting petroleum products even if a hazardous materials placard is required, which is not in compliance with federal regulations.³⁰

Maximum Driving Time

Section 316.302(2), F.S., provides prohibitions to length of time CMV drivers may drive, as well as exemptions from federal requirements for specified vehicles. Section 316.302(2)(b), F.S., provides that a person who operates a CMV solely in intrastate commerce without any hazardous materials in amounts requiring placarding may not drive:

- More than 12 hours following 10 consecutive hours off duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

Except as provided in the federal hours of service rules³¹, a person operating a CMV solely in intrastate commerce not transporting any hazardous material may not drive after having been on duty more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week.³² Upon request of DHSMV, motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.³³

Effect of Proposed Changes

Section 4 amends multiple provisions in s. 316.302, F.S., addressing federal compatibility issues.

This section amends s. 316.302(1), F.S., to clarify that the section applies to all CMVs except as provided in s. 316.302(3), F.S., relating to covered farm vehicles.

This section amends s. 316.302(1)(b), F.S., to remove an exception to federal law as it relates to the definition of a bus.

This section adopts federal laws that intrastate CMV owners and drivers are required to comply with as such federal rules and regulations existed on December 31, 2016.³⁴ Examples of some of the regulations adopted that directly affect intrastate CMVs include:

- Amending the definition of *gross combination weight rating* to provide clarification;³⁵ and

³⁰ 2007 Florida State MCSAP Review, *supra* note 20 at p. 5, *FL/FI-3*.

³¹ 49 C.F.R. s. 395.1

³² Section 316.302(2)(c), F.S.

³³ This penalty is found in 316.302(2)(c), F.S.; However, s. 316.3025, F.S., relating to CMV penalties, provides that a penalty of \$100 may be assessed for a violation of s. 316.302(2)(b) or (c), F.S.

³⁴ A list of Final Rules adopted as of December 31, 2016, that affect FMCSA rules and regulations are available on the FMCSA website, *Rulemaking Documents*, available at <https://www.fmcsa.dot.gov/regulations/search/rulemaking?keyword=&dt=final&topic=> (last visited Mar. 13, 2017).

³⁵ Gross Combination Weight Rating; Definition, 79 Fed. Reg. 15245 (Mar. 19, 2014), available at <https://www.federalregister.gov/documents/2014/03/19/2014-05502/gross-combination-weight-rating-definition> (last visited Mar. 13, 2017).

- Requiring the use of a Unified Registration System to submit required registration and biennial update information to the FMCSA.³⁶

However, s. 316.302(1)(e), F.S., is created to delay the requirement for electronic logging devices and hours of service support documents³⁷ for intrastate motor carriers, not carrying hazardous materials in amounts requiring placarding, until December 31, 2018.

This section amends s. 316.302(1)(d), F.S., to remove an exemption from federal law allowing specified CMVs to obscure certain lighting or reflective devices.

Due to changes in federal law, the section amends s. 316.302(2)(a), F.S., to provide clarity that drivers of intrastate CMVs that are not transporting hazardous materials requiring placarding are exempt from 49 C.F.R. s. 395.3, which provides maximum driving times for property-carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

This removes a duplicate penalty for falsifying hours of service records from s. 316.302(2)(c), F.S.

Section 316.302(2)(d), F.S., is amended to provide that to be exempt from being required to maintain records of duty status for short-haul drivers the driver must also return to the work reporting location and be released from work within 12 consecutive hours.

Lastly, the section amends s. 316.302(2)(f), F.S., to remove specified exemptions for drivers transporting petroleum products. The section also removes that these exemptions apply when a CMV has a *declared* gross vehicle weight of less than 26,001 pounds. This criterion is changed to CMVs having a *gross vehicle weight, gross vehicle weight rating, and gross combined weight rating* of less than 26,001 pounds.

Commercial Motor Vehicle Operator Disqualifications (Sections 5 and 38)

Present Situation

Federal and state laws prohibit drivers of commercial motor vehicles from texting while driving a commercial motor vehicle (CMV) and from using a hand-held mobile telephone while driving a CMV.³⁸ Section 316.3025, F.S., provides that a driver who violates these laws may be assessed a civil penalty of:

- \$500 for the first violation;
- \$1,000 and a 60-day CDL disqualification for a second violation; and
- \$2,750 and a 120-day CDL disqualification for a third and subsequent violation.

³⁶ Unified Registration System, 78 Fed. Reg. 52607 (Aug. 23, 2013), *available at* <https://www.federalregister.gov/documents/2013/08/23/2013-20446/unified-registration-system> (last visited Mar. 13, 2017). However, the system is currently delayed until all necessary data is transferred to the new database and that is compatible with State partners. See 82 Fed. Reg. 5292.

³⁷ Electronic Logging Devices and Hours of Service Supporting Documents, 80 Fed. Reg. 78291 (Dec. 16, 2015), *available at* <https://www.federalregister.gov/documents/2015/12/16/2015-31336/electronic-logging-devices-and-hours-of-service-supporting-documents> (last visited Mar. 6, 2017).

³⁸ See 49 C.F.R. ss. 392.80 and 392.82, and s. 316.3025, F.S.

However, federal law requires the 60 and 120-day CDL disqualification for these offenses to be assessed for any combination of certain serious traffic violations during a 3-year period. Specifically, federal law requires, for offenses occurring within a 3-year period while operating a CMV, a 60-day CDL disqualification for a second conviction and a 120-day CDL disqualification for a third or subsequent conviction of any combination of the following offenses³⁹:

- Excessive speeding (15 mph or more over the posted speed limit);
- Reckless driving;
- Improper lane changes;
- Following too closely;
- A violation of any state or local law relating to motor vehicle traffic control arising in connection with a fatal accident;
- Driving a CMV:
 - Without obtaining a CDL;
 - Without a CDL in the driver's possession;
 - Without the proper class of CDL or endorsements required;
- Violating a state or local law or ordinance on motor vehicle traffic control prohibiting:
 - Texting while driving a CMV; or
 - Use of a hand-held mobile telephone while driving a CMV.

With the exception of texting while driving a CMV and the use of a hand-held mobile phone while driving a CMV, the above penalties and offenses are in state law.⁴⁰ To align with federal law, these two offenses need to be added to the list of disqualifying offenses in s. 316.3025, F.S. According to the DHSMV, non-compliance could result in a loss of federal highway funds.⁴¹

Effect of Proposed Changes

Sections 5 and 38 amend ss. 316.3025 and 322.61, F.S., respectively, to remove the commercial driver license disqualification penalty for texting while driving a CMV and using a hand-held mobile telephone while driving a CMV from s. 316.3025, and adds those offenses to the list of serious disqualifying offenses while operating a commercial motor vehicle listed in s. 322.61, F.S. This change aligns Florida law with federal regulations.

Autonomous Vehicle Operation (Section 7)

Present Situation

Section 316.003(2), F.S., defines “autonomous vehicle” as any vehicle equipped with autonomous technology. That subsection also includes a definition of “autonomous technology,” which means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed *without the active control or monitoring by a human*

³⁹ 49 C.F.R. s. 383.51 (2015), Table 2, available at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-subtitleB-chapIII-subchapB.pdf> at p. 206-207 (last visited Feb 9, 2017).

⁴⁰ See s. 322.61(1), F.S.

⁴¹ Meeting with the DHSMV and Senate Transportation Committee Staff (Jan. 23, 2017).

operator.⁴² If a vehicle is equipped with technology that requires active control or monitoring by a human operator, that vehicle does not meet the definition of “autonomous vehicle” under Florida law.

Section 316.85, F.S., authorizes a person who possesses a valid driver license to operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology as defined in s. 316.003(2), F.S. A person is deemed the operator of an autonomous vehicle operating in autonomous mode when the person causes the vehicle’s autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode. Thus, under Florida law, an autonomous vehicle may be operated in autonomous mode even if a person is not physically present in the vehicle.

Section 319.145, F.S., requires autonomous vehicles registered in this state to:

- Have a system to safely alert the operator if an autonomous technology failure is detected while the technology is engaged. When an alert is given, the *system* must:
 - Require the operator to take control of the autonomous vehicle; or
 - If the operator does not, or is not able to, take control of the autonomous vehicle, be capable of bringing the vehicle to a complete stop.
- Have a means inside the vehicle to visually indicate when the vehicle is operating in autonomous mode; and
- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

Effect of Proposed Changes

Section 7 amends s. 316.85, F.S., to allow a person who does not possess a valid driver license to engage autonomous technology to operate an autonomous vehicle in autonomous mode only if the person inside the vehicle cannot take control of the vehicle’s operation or disengage the autonomous technology.

Autonomous Vehicles/Transportation Network Companies/Insurance (Section 8)

Present Situation

Technological advances have led to new methods for consumers to arrange and pay for transportation, including software applications that make use of mobile smartphone applications, Internet web pages, email, and text messages. Ridesharing companies, such as Lyft, Uber, and SideCar, describe themselves as “transportation network companies” (TNCs), rather than as vehicles for hire.

TNCs use smartphone technology to connect individuals who want to ride with private drivers for a fee. A driver logs onto a phone application and indicates the driver is ready to accept

⁴² The latter definition does not include a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

passengers. Potential passengers log on, learn which drivers are nearby, see photographs, receive a fare estimate, and decide whether to accept a ride. If the passenger accepts a ride, the driver is notified and drives to pick up the passenger. Once at the destination, payment is made through the phone application.

Drivers generally use their personal vehicles, and personal automobile insurance policies may contain a “livery” exclusion that excludes coverage if the vehicle is carrying passengers for hire.⁴³ Consequently, personal automobile insurance policies may not cover damage or loss when a car is being used for commercial ridesharing. Some ridesharing companies provide insurance for portions of the time when the driver is transporting passengers, but such insurance is not required. This could lead to situations where drivers and passengers are involved in accidents and there is no insurance coverage. In contrast, taxis and limousines must maintain a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, up to \$250,000 per incident for bodily injury, and \$50,000 for property damage.⁴⁴

Issues relating to insurance coverage for TNCs, and other TNC-related matters, have been under review by the Florida Legislature in recent years. The Florida Senate is currently considering legislation that would create uniform statewide minimum insurance requirements for TNCs and TNC drivers. Generally, when a TNC driver is logged onto the digital network⁴⁵ but not engaged in a prearranged ride,⁴⁶ the legislation requires:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;
- Personal Injury Protection (PIP) benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405, F.S.;⁴⁷ and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.⁴⁸

When a TNC driver is engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine⁴⁹ under ss. 627.730-627.7405, F.S.; and

⁴³ The exclusion in Florida law is mentioned in s. 627.041(8), F.S.

⁴⁴ Section 324.032(1)(a), F.S.

⁴⁵ CS/CS/SB 340 currently defines “digital network” to mean any online-enabled technology application service, website, or system offered or used by a TNC that enables the prearrangement of rides with TNC drivers.

⁴⁶ CS/CS/SB 340 currently defines “prearranged ride” to mean the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports the rider, and ending when the last rider exits from and is no longer occupying the TNC vehicle.

⁴⁷ These provisions, known as the No-Fault Law, require coverage for PIP to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits.

⁴⁸ Section 627.727(1), F.S., requires uninsured motorist vehicle coverage if a policy provides bodily injury coverage unless it is specifically rejected.

⁴⁹ Although the legislation currently requires PIP coverage at the same amounts required of limousines, limousines are excluded from PIP requirements under s 627.733(1)(a), F.S. Thus, the effect of this provision should it remain in the TNC

- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.⁵⁰

Interest in the use of autonomous vehicles in ridesharing services is increasing, including with respect to fully autonomous vehicles that do not require drivers. General Motors reportedly paid \$500 million for a stake and strategic alliance in Lyft to develop the use of autonomous vehicles in ridesharing and recently spent \$1 billion to buy a technology company that has self-driving cars on roads in California.⁵¹ Current Florida law does not specifically address insurance requirements for autonomous vehicles, or for autonomous vehicles used by TNCs.

Effect of Proposed Changes:

Section 8 of the bill creates s. 316.851, F.S., effective on the same date that the TNC legislation currently under consideration, or similar legislation, takes effect, if such legislation is enacted in the 2017 Regular Session or in any extension thereof. In that case, the bill would require an autonomous vehicle used by a TNC *to provide a prearranged ride* to be covered by automobile insurance as required by s. 627.748, F.S., created in that TNC legislation, regardless of whether a human operator is physically present in the vehicle when the ride occurs. As the legislation currently stands, the required coverage would be primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage, and uninsured and underinsured vehicle coverage as required by s. 627.727, F.S. The coverage ultimately specified in that legislation, if enacted, would be required coverage for an autonomous vehicle used by a TNC to provide prearranged transportation, regardless of the presence or absence of a human driver.

- The bill further requires an autonomous vehicle logged on to a digital network but not engaged in a prearranged ride to maintain insurance coverage as defined in s. 627.748(7)(b), F.S. As the TNC legislation currently stands, subsection (7)(b) requires during the identified period of time:
 - Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;
 - PIP benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405, F.S.;⁵² and
 - Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

The bill also requires an autonomous vehicle used to provide a transportation service to carry in the vehicle proof of the required coverage at all times while operating in autonomous mode.

legislation and be enacted would require no PIP coverage when an autonomous vehicle is engaged in a prearranged ride, regardless of whether a human operator is physically present in the vehicle when the ride occurs.

⁵⁰ See the CS/CS/SB 340 staff analysis for additional information and details of the legislation, available at <http://www.flsenate.gov/Session/Bill/2017/340/Analyses/2017s00340.rc.PDF>. (last visited April 19, 2017.)

⁵¹ See The Ford Motor Company, *Ford Targets Fully Autonomous Vehicle for RideSharing in 2021; Invests in New Tech Companies, Doubles Silicon Valley Team* (Aug. 16, 2016), available at <https://media.ford.com/content/fordmedia/fna/us/en/news/2016/08/16/ford-targets-fully-autonomous-vehicle-for-ride-sharing-in-2021.html> (last visited April 19, 2017.)

⁵² These provisions, known as the No-Fault Law, require coverage for personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits.

Dori Slosberg Driver Education Safety Act (Section 9)

Present Situation

Section 318.1215, F.S., the Dori Slosberg Driver Education Safety Act, allows a board of county commissioners to require, by ordinance, that the clerk of court collect an additional \$5 with each civil traffic penalty, which shall be used to fund driver education programs in schools. The funds are required to be used for direct educational expenses, and a minimum of 30 percent of the student's time in the program be behind-the-wheel-training.

According to the Dori Saves Lives non-profit, more than 60 counties in Florida require the additional \$5 with each civil traffic penalty, bringing in approximately \$15 million each year to fund driver education programs in Florida schools.⁵³

Effect of Proposed Changes

Section 9 amends s. 318.1215, F.S., to provide that a board of county commissioners may require, by ordinance, that the clerk of court collect an additional \$5 with each *criminal*, instead of *civil* traffic penalty, which is used to fund driver education programs in schools. This change will likely reduce the amount of such funds collected.

Work Zones (Sections 10 and 46)

Present Situation

Section 318.18, F.S., provides that a person cited for exceeding the speed limit in a posted construction zone, must pay double the fine for exceeding the speed limit. The posting must include notification of the speed limit and the doubling of fines. Fines are doubled only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction. Fines for unlawful speed are:

<i>For speed exceeding the limit by:</i>	<i>Fine:</i>
1-5 m.p.h.	Warning
6-9 m.p.h.	\$25
10-14 m.p.h.	\$100
15-19 m.p.h.	\$150
20-29 m.p.h.	\$175
30 m.p.h. and above	\$250

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The term construction zone is not defined in Florida Statutes; however, s. 316.003(97), F.S., defines “work zone” as the area and its approaches on any state-maintained highway, county maintained highway, or municipal street where construction, repair, maintenance, or other street-related or highway-related work is being performed or where one or more lanes are closed to traffic.

⁵³ Dori Saves Lives, *Teen Driver Education Teachers*, <http://dorisaveslives.org/driver-education-teachers/> (last visited April 19, 2017).

Effect of Proposed Changes

Section 10 amends s. 318.18(3)(d), F.S., to change the term “construction zone” to “work zone.” Persons cited for exceeding the speed limit in a posted work zone must pay double the fine for unlawful speed.

Section 42 provides that this amendment applies upon the adoption by rule of uniform traffic citation forms. The DHSMV shall notify the Division of Law Revision and Information upon the adoption of such forms.

International Registration Plan – Charter Buses (Section 11)***Present Situation***

The International Registration Plan (IRP) is a registration reciprocity agreement among all states in the contiguous United States, the District of Columbia, and several Canadian provinces. It provides for the payment of license fees based on fleet operation in various member jurisdictions.⁵⁴ This allows carriers to operate inter-jurisdictionally while only needing to register its vehicles in its base jurisdiction, which is the state or province where the registrant has an established place of business⁵⁵.

All apportionable vehicles domiciled in the state are required to be registered in accordance with the IRP and display “Apportioned” license plates.⁵⁶ Motor carriers registered under the IRP are also required to maintain specified records for the DHSMV, and may have their registrations and license plates withheld if:⁵⁷

- An identifying number issued by the federal agency responsible for motor carrier safety is not provided for the motor carrier and entity responsible for motor carrier safety for each motor vehicle; or
- A motor carrier or vehicle owner has been prohibited from operating by a federal or state agency responsible for motor carrier safety.

Additionally, the DHSMV has authority to suspend, with notice, any commercial motor vehicle or license plate issued to a motor carrier or vehicle owner who has been prohibited from operating by a federal or state agency responsible for motor carrier safety.⁵⁸ Apportionable vehicles that do not regularly operate in a particular jurisdiction also have the option to register for trip permits in order to operate in IRP member jurisdictions for limited periods where they do not pay license taxes.⁵⁹

⁵⁴ International Registration Plan, Inc., *About IRP*, <http://www.irponline.org/?page=AboutIRP> (last visited Feb. 1, 2017).

⁵⁵ As defined by the IRP, (January 2017) available at http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf at p. 16 (last visited Feb. 1, 2017).

⁵⁶ Section 320.0715(1), F.S.

⁵⁷ Section 320.0715(4), F.S.

⁵⁸ Section 320.0715(4)(c), F.S.

⁵⁹ See IRP, Inc., *Trip Permits- Cost/Duration* (May 2016), available at http://www.irponline.org/resource/resmgr/Jurisdiction_Info_2/Trip_Permits_5.19.2016.xlsx (last visited Feb. 6, 2017).

The IRP defines an apportionable vehicle as:⁶⁰

[A]ny Power Unit that is used or intended for use in two or more Member Jurisdictions and that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and:

- (i) Has two Axles and a gross Vehicle weight or registered gross Vehicle weight in excess of 26,000 pounds, or
- (ii) Has three or more Axles, regardless of weight, or
- (iii) Is used in combination, when the gross Vehicle weight of such combination exceeds 26,000 pounds.

The definition excludes a recreational vehicle, a vehicle displaying restricted plates, or a government-owned vehicle. However, those excluded vehicles may choose to register under the IRP.

Prior to January 1, 2016, charter buses were also excluded from having to register under the IRP, but retained the option to do so. The IRP was amended to remove charter buses from the exemption, requiring charter bus operations to register under the IRP. This registration ensures that charter bus operations will pay license fees to each jurisdiction it operates in, and prevents or suspends the registration of unsafe carriers.⁶¹ As of January 1, 2016, the DHSMV estimates that less than 200 charter bus carriers or companies within the state were required to register under the IRP in order for the state to remain compliant with the reciprocity agreement.⁶²

Effect of Proposed Changes

Section 11 amends s. 320.01, F.S., to remove charter buses from the apportionable vehicle exclusion. This change is necessary to align with the requirements of the IRP. All charter buses operating interstate are now required to obtain an IRP registration or purchase trip permits.

Prevent Blindness Florida Organization Name Change (Sections 12, 21 and 32)

Present Situation

In May of 2016, the organization Prevent Blindness Florida changed their name to Preserve Vision Florida.⁶³

⁶⁰ International Registration Plan (Jan. 2017), available at http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf at p. 12-13 (last visited Feb. 2, 2017).

⁶¹ See IRP, Inc., *Official Amendment to the International Registration Plan* (June 2014) http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/irp_ballots/ballot_391.pdf (last visited Feb. 3, 2017).

⁶² Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

⁶³ Department of State, Division of Corporations – Sunbiz.org, *Preserve Vision Florida, Inc.* (May 4, 2016), <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2016%5C0509%5C84865905.Tif&documentNumber=706503> (last visited Mar. 22, 2017).

Effect of Proposed Changes

Sections 12, 12 and 32 amend ss. 320.02, 320.08068 and 322.08, F.S., respectively, pertaining to the DHSMV to recognize the organization's name change.

Tax Collector Services and Fee Distributions (Sections 13, 34, 35 and 37)***Present Situation***

In 2010, the Florida Legislature required all state driver license issuance services be transferred to tax collectors who are constitutional officers under s. 1(d), Art. VIII of the State Constitution by June 30, 2015.⁶⁴ As part of that transfer, tax collectors retain portions of specified fees when processing certain driver license services. Additionally, tax collectors charge a \$6.25 service fee for completing such services.⁶⁵ However, some tax collectors refuse to offer such services to out-of-county Florida residents.

Tax collectors are not currently able to retain portions of fees for some services that the tax collectors are regularly performing. For example, an applicant who fails an initial driving knowledge or skills test is required to pay a \$10 or \$20 fee, respectively, to be issued a subsequent test. These fees are deposited into the Highway Safety Operating Trust Fund (HSOTF), regardless of whether the DHSMV or the tax collectors administered the exam.⁶⁶

Similarly, service fees for license reinstatements collected pursuant to s. 322.21(8), F.S., are deposited into the General Revenue Fund and HSOTF, regardless of whether the reinstatement was conducted by the DHSMV or tax collectors. Of the \$45 service fee to reinstate a driver license suspension, \$15 is deposited in the General Revenue Fund and \$30 in the HSOTF. Of the \$75 service fee to reinstate a driver license revocation or CDL disqualification, \$35 is deposited in the General Revenue Fund and \$40 in the HSOTF.

Effect of Proposed Changes

Sections 13 and 35 amend ss. 320.03 and 322.135, F.S., respectively, to require each tax collector to provide the same motor vehicle registration and driver license services to residents of other counties as it does to residents of its home county.

Sections 34 and 37 amend ss. 322.12 and 322.21, F.S., respectively, to require, for subsequent driver license initial knowledge and skills tests, that the tax collector retain the \$10 or \$20 fee, less an eight percent General Revenue Service Charge⁶⁷, for administering tests to applicants. The bill also requires the tax collectors to retain a portion of service fees when processing driver license reinstatements. If the reinstatement is processed by the tax collector:

- Of the \$45 fee for suspension reinstatement, \$15 shall be retained by the tax collector, less an eight percent General Revenue Service Charge, and \$15 shall be deposited into the HSOTF; and

⁶⁴ Chapter 2010-163, Laws of Florida and s. 322.02(1), F.S.

⁶⁵ Section 322.135(1)(c), F.S.

⁶⁶ Section 322.12(1), F.S.

⁶⁷ Set forth in s. 215.20, F.S.

- Of the \$75 fee for revocation or disqualification reinstatement, \$20 shall be retained by the tax collector, less an eight percent General Revenue Service Charge, \$20 shall be deposited into the HSOTF, and \$35 shall be deposited into the General Revenue Fund.

DHSMV's Electronic Filing System (Section 14)

Present Situation

Section 320.03, F.S., provides the duties of tax collectors as it relates to motor vehicle licensing. It provides that jurisdiction over the electronic filing system (EFS) for use by authorized EFS agents for certain purposes is expressly preempted to the state, and DHSMV has regulatory authority over the system. Specifically, the EFS is used to:

- Electronically title or register motor vehicles, vessels, mobile homes, or off-highway vehicles;
- Issue or transfer registration license plates or decals;
- Electronically transfer fees due for the title and registration process; and
- Perform inquiries for title, registration, and lienholder verification and certification of service providers.

The section provides that an entity that, in the normal course of its business, sells products that must be titled or registered, provides title and registration services on behalf of its consumers, *and* meets the requirements established by the DHSMV shall not be precluded from participating in the EFS upon request from the qualified entity.⁶⁸ The EFS must be available for use statewide and applied uniformly throughout the state. Additionally, the EFS agents may charge a fee to the customer for use of the EFS.

The EFS is primarily used by Florida's motor vehicle dealers to acquire access to DHSMV registration and title information, and to process title and registration transactions.⁶⁹

Effect of Proposed Changes

Section 14 amends s. 320.03(10), F.S., to provide that effective July 1, 2018, the EFS system can be used to process title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvage motor vehicles. The bill adds that an entity that, in the normal course of its business, processes title transactions, derelict motor vehicle certificates, or certificates of destruction for derelict or salvage motor vehicles and meets the requirements established by the DHSMV may be an authorized EFS agent.

The section also reauthorizes DHSMV to adopt rules to administer the section, including, but not limited to, rules establishing participation requirements, certification of service providers, EFS requirements, disclosures, and enforcement authority for noncompliance.

⁶⁸ Fla. Admin. Code R. 15C-16.010 provides DHSMV's requirements to be an EFS agent.

⁶⁹ For more information, see DHSMV website, *Electronic Filing System (EFS)*, <https://www.flhsmv.gov/motor-vehicles-tags-titles/electronic-lien-titles/electronic-filing-system-efs/> (last visited April 19, 2017).

Issuance of Apportionable Vehicle Plates (Sections 15 and 17)

Present Situation

Registration license plates, which bear a graphic symbol and alphanumeric system of identification, are issued for a 10-year period. However, “Apportioned” license plates issued to vehicles registered under the International Registration Plan (IRP), are issued annually.⁷⁰ Each original plate costs \$28, which is deposited into the Highway Safety Operating Trust Fund (HSOTF). Apportioned vehicles are also issued an annual cab card that denotes the declared gross vehicle weight for each apportioned jurisdiction where the vehicle is authorized to operate.⁷¹

Effect of Proposed Changes

Sections 15 and 17 amend ss. 320.06 and 320.0607, F.S., respectively, to provide that beginning October 1, 2018, apportioned vehicles will be issued license plates valid for a 5-year period, instead of annually. If the license plate is damaged or worn prior to the end of the 5-year period, the DHSMV will replace it, upon application and surrender of the current plate, at no charge. Cab cards and validation stickers will continue to be issued annually, and the \$28 annual fee will apply to the issuance of an original or renewal validation sticker, instead of for the cost of the plate.

Electronic Rental Agreements (Section 16)

Present Situation

Section 320.0605, F.S., provides that a person who rents or leases a vehicle is required to possess a true copy of rental or lease documentation for the motor vehicle at all times while the vehicle is being operated.⁷² The documentation must include the following:

- Date of rental and time of exit from rental facility;
- Rental station identification;
- Rental agreement number;
- Rental vehicle identification number;
- Rental vehicle license plate number and state of registration;
- Vehicle’s make, model, and color;
- Vehicle’s mileage; and
- Authorized renter’s name.

Effect of Proposed Changes

Section 16 amends s. 320.0605, F.S., to authorize a person to possess an *electronic copy* of the rental or lease documentation to be displayed upon the request of a law enforcement officer or an agent of the DHSMV. The bill provides that displaying the electronic copy does not constitute consent for the officer or agent to access any information on the device other than the displayed

⁷⁰ Section 320.06(1)(b)1., F.S.

⁷¹ See IRP, Inc., *State of Florida Apportioned Cab Card Sample*, http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/cab_cards/fl_cc_sample.pdf (last visited Feb. 8, 2017).

⁷² A person who cannot display such documentation upon request from an officer or agent of the DHSMV is guilty of a noncriminal traffic infraction, punishable as a nonmoving violation.

rental or lease documentation. The person who presents the device to the officer assumes liability for any resulting damage to the device.

This section also removes that the rental or lease documentation must include the time of exit from the rental facility.

Agricultural Restricted License Plate (Section 18)

Present Situation

Section 320.08(4)(m), F.S., provides a restricted license plate for a flat fee of \$324 available for truck tractors used within a 150-mile radius of its address used for hauling forestry products.

Section 320.08(4)(n), F.S., provides a restricted plate for a flat fee available for truck tractors or heavy trucks, not operated as for-hire vehicles, engaged exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products within a 150-mile radius of its home address. The fee for such plate is:

- \$87.75 if such vehicle's declared gross weight is less than 44,000 pounds; or
- \$324 if the vehicle's declared gross weight is 44,000 pounds or more and such vehicle only transports from the point of production to the point of primary manufacture; the point of assembly; or to a shipping point.

For these purposes, "not-for-hire" means that the owner of the motor vehicle must also be the owner of the raw, unprocessed, and nonmanufactured agricultural or horticultural product or the user of the farm implements and fertilizer being delivered. The DHSMV may require any documentation deemed necessary to determine eligibility prior to issuance of this license plate.

Effect of Proposed Changes

Section 18 amends s. 320.08, F.S., to revise the eligibility requirement for the agricultural restricted plate by removing the 150-mile radius from its home address requirement. Instead, truck tractors or heavy trucks that operate *within the state* and meet the criteria for the restricted plate are eligible for such plate.

Section 18 also makes cross-reference changes to conform to provisions made by the bill.

Discontinued Specialty License Plates (Sections 19 and 20)

Present Situation

The DHSMV must discontinue the issuance of any approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months, or discontinue the sale of presale vouchers if the approved plate does not sell at least 1,000 vouchers in 24 months.⁷³ The specialty license plate must also be discontinued if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.⁷⁴

⁷³ Sections 320.08056(8)(a) and 320.08053(1)(b), F.S.; Florida collegiate plates are exempt from these requirements.

⁷⁴ Section 320.08056(8)(b), F.S.

The following specialty license plates have been discontinued by the DHSMV:

- The American Red Cross plate for failing to meet sales requirements;⁷⁵
- The Donate Organs Pass It On plate because the organization has closed;⁷⁶ and
- The St. Johns River plate and Hispanic Achievers plate for not meeting presale requirements.⁷⁷

Effect of Proposed Changes

Sections 19 and 20 amend ss. 320.08056 and 320.08058, F.S., respectively, to remove the American Red Cross plate, the Donate Organs Pass It On plate, the St. Johns River plate, and the Hispanic Achievers plate from law.

Ancient, Antique Motor, or Historical Motor Vehicles (Section 22)

Present Situation

Section 320.086, F.S., provides that *ancient* motor vehicle is defined as a private-use motor vehicle manufactured in 1945 or earlier. An *antique* motor vehicle is defined as a private-use motor vehicle manufactured after 1945 and of the age of 30 years or more after the date of manufacture. Additionally, the section provides requirements for a motor vehicle to be registered as a historical motor vehicle, and an ancient or antique firefighting apparatus or former military vehicle only used in exhibitions. For purposes of this section, “former military vehicle” includes a trailer.

The owner of such vehicles, upon application to the DHSMV and upon payment of the license tax, will be issued a special license plate for the motor vehicle. For *ancient* motor vehicles, the license plate is valid for use without renewal so long as the vehicle is in existence. Owners of antique and ancient motor vehicles pay a reduced, flat license tax of \$7.50.⁷⁸

Effect of Proposed Changes

Section 22 amends s. 320.086, to provide, for purpose of this section, a trailer is considered a motor vehicle. Therefore, if the owner of a trailer qualifies for such license plate upon application to the DHSMV and payment of the license tax, the trailer will be issued the corresponding special license plate.

⁷⁵ DHSMV Technical Advisory RS/TL16-009, *American Red Cross Specialty License Plate* (April 6, 2016), available at https://www.flhsmv.gov/dmv/bulletins/2016/ta_rstl16-009.pdf (last visited Mar. 22, 2017).

⁷⁶ DHSMV Technical Advisory RS/TL16-019, *Deauthorization of Donate Organs Pass It On Specialty License Plate* (July 15, 2016), available at https://www.flhsmv.gov/dmv/bulletins/2016/ta_rstl16-019.pdf (last visited Mar. 22, 2017).

⁷⁷ After 24 months in the presale process, the Hispanic Achievers plate had 26 registrations and the St. Johns River plate had 45 registrations. See DHSMV website, *Pre-Sale Specialty License Plate Vouchers* (June 30, 2016), <http://www.flhsmv.gov/specialtytags/PreSaleData.html> (last visited Mar. 22, 2017).

⁷⁸ Section 320.08(2), F.S.

Purple Heart Motorcycle Plate (Section 23)

Present Situation

DHSMV currently offers multiple military special license plates available to certain military service members or veterans, but only offers two military motorcycle special plates: the Disabled Veteran motorcycle plate and the Paralyzed Vets of America motorcycle plate.⁷⁹

Purple Heart Medal

The Purple Heart is one of the oldest and most recognized American military medals, awarded to service members who were killed or wounded by enemy action. The Purple Heart differs from all other decorations in that an individual is not “recommended” for the decoration. Rather, he or she is entitled to it upon meeting specific criteria.⁸⁰ The Purple Heart is ranked immediately behind the Bronze Star Medal and ahead of the Defense Meritorious Service Medal⁸¹ in order of precedence.

Effect of Proposed Changes

Section 23 creates s. 320.0875, F.S., to establish a Purple Heart motorcycle special license plate. A Florida resident who owns or leases a motorcycle that is not used for hire or commercial use, and who was awarded a Purple Heart may receive a Purple Heart motorcycle license plate upon:

- Application to the DHSMV;
- Payment of the motorcycle license tax⁸²; and
- Documentation acceptable to the DHSMV that he or she is a recipient of the Purple Heart medal.

The Purple Heart motorcycle plate shall be stamped with the words “Combat-wounded Veteran” followed by the serial number, the term “Purple Heart,” and the likeness of the Purple Heart medal.

Bronze Star License Plate (Section 24)

Present Situation

Currently, there are 21 special military plates authorized in s. 320.089, F.S., available to military service members or veterans.⁸³ Special military plates authorized under this section are stamped

⁷⁹ For plate samples, see DHSMV, *Military License Plates*, available at <http://www.flhsmv.gov/specialtytags/miltags.html> (last visited Mar. 22, 2017).

⁸⁰ Paragraph 1-14(c), Army Regulation 600-8-22.

⁸¹ The Defense Meritorious Service Medal is awarded in the name of the Secretary of Defense to members of the Armed Forces of the United States who, after 3 November 1977, distinguished themselves by noncombat meritorious achievement or service.

⁸² Section 320.08(1)(a) and (c), F.S., provide the motorcycles have a flat license tax of \$10 plus a \$2.50 nonrefundable motorcycle education safety fee.

⁸³ The 21 military special plates currently offered in s. 320.089, F.S., include plates available for the following types of service: Veteran or Woman Veteran of the U.S. Armed Forces, World War II, Korean War, or Vietnam War Veteran, Navy Submariner, Active or retired National Guard member or U.S. Reservists, Pearl Harbor survivor, recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, Distinguished Flying Cross, or Purple Heart, former Prisoner of War, and service members or veterans of Operation Desert Shield, Desert Storm, Enduring Freedom, and Iraqi Freedom.

with words consistent with the type of special plate issued, and include a likeness of the related campaign medal or badge, if applicable. Applicants for special military license plates authorized under this section are required to pay the annual license tax in s. 320.08, F.S., with the exception of certain disabled veterans who qualify for the Pearl Harbor, Purple Heart, or Prisoner of War plate, to whom such plates are issued at no cost.⁸⁴ With the exception of Woman Veteran plates, the first \$100,000 of revenue generated annually from the sale of special use military plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act, as described in s. 296.38(2), F.S. Additional revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.⁸⁵ Proceeds from the Woman Veteran plates must be deposited into the Operations and Maintenance Trust Fund administered by the Department of Veterans' Affairs to be used solely for the purpose of creating and implementing programs that benefit women veterans.⁸⁶

Bronze Star Medal

The Bronze Star Medal was established on February 4, 1944, to recognize those who served after December 6, 1941, in any capacity in or with the Armed Forces of the United States or a friendly foreign nation. The Bronze Star Medal is awarded to a person who distinguished himself or herself by heroic or meritorious service, not involving participation in aerial flight, in connection with military operations against an armed enemy; or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. Recipients of the Bronze Star Medal must be receiving imminent danger pay while serving in a geographic area authorized for special pay.⁸⁷ In order of precedence, the Department of Defense (DoD) places the Bronze Star Medal seventh amongst DoD wide military decorations and awards following the Distinguished Flying Cross and preceding the Purple Heart.⁸⁸

Effect of Proposed Changes

Section 24 creates a special military license plate for recipients of the Bronze Star Medal. The plate will be stamped with the words "Bronze Star" and a likeness of the Bronze Star Medal. To receive a Bronze Star special military license plate, the individual must submit an application for the plate to the DHSMV, provide proof that he or she is a Bronze Star Medal recipient, and pay the appropriate license tax as provided in s. 320.08, F.S. Revenue generated from the sale of the Bronze Star plate is deposited in the Grants and Donations Trust Fund and the State Home for Veterans Trust Fund, both of which are administered by the FDVA.

This section also makes technical changes to s. 320.089, F.S., to provide clarity.

⁸⁴ Section 320.089(1)(c) and (2)(a), F.S.

⁸⁵ Section 320.089(1)(b), F.S.

⁸⁶ Section 320.089(1)(c), F.S.

⁸⁷ Department of the Army, *Military Awards*, Army Regulation 600-8-22 (June 25, 2015).

⁸⁸ Department of Defense, *Manual of Military Decorations and Awards: DoD Service Awards – Campaign, Expeditionary, and Service Medals*, Manual No. 1348.33, Vol. 2 (May 15, 2015). The order of precedence for military awards varies by branch of service.

Transporter License Plates (Section 25)

Present Situation

Section 320.133, F.S., allows the DHSMV to issue transporter license plates. Transporter plates are available for an applicant who, incidental to the conduct of the applicant's business, engages in the transporting of unregistered motor vehicles, and who pays a license tax and provides proof of liability insurance coverage of at least \$100,000. A transporter plate is valid for 1 year, beginning January 1 to December 31, for a flat license tax of \$101.25.⁸⁹ To apply for a transporter plate, the business applicant certifies he understands the plate may only be used for motor vehicles in possession of the business that are being transported in the course of the business.⁹⁰

Types of businesses that may require the use of transporter plates include:

- Motor vehicle detail shops;
- Van conversion shops or other shops installing specialized equipment on vehicles;
- Businesses that transport mobile homes and recreational vehicles;
- Licensed repossessors; and
- Businesses that deliver unregistered vehicles (Drive away services).

Currently, there are 8,332 transporter license plates issued by the state, and approximately 4,618 businesses and individuals who have these plates issued to them.⁹¹ There is no requirement for the business applying for the plate to prove it is engaged in transporting unregistered vehicles. The DHSMV has discovered businesses are using transporter license plates on company vehicles rather than on vehicles being transported for the business. According to DHSMV, it has little authority under current law to inquire as to whether the license plates are being used appropriately by applicants.⁹²

Effect of Proposed Changes

Section 25 makes numerous changes to s. 320.133, F.S., concerning transporter license plates, including defining a "transporter license plate eligible business," requiring additional business information from applicants for transporter licenses, and adding penalties for improper use of transporter license plates.

This section also requires applicants for transporter license plates to provide proof satisfactory to the DHSMV that the business is a "transporter license plate eligible business," which is defined as a business engaged in the limited operation of unregistered motor vehicles or a reposessor who contracts with lending institutions to repossess or recover motor vehicles or mobile homes. Additionally, the application for a transporter license plate must include:

- The legal name of the person or persons applying for the license plate;
- The name of the business, and principal or principals of the business;

⁸⁹ Sections 320.08(15) and 320.133(3), F.S.

⁹⁰ See DHSMV, *Application for Transporter License Plates* (May 2011), available at <https://www.flhsmv.gov/pdf/forms/83065.pdf> (last visited Feb. 10, 2017).

⁹¹ DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

⁹² *Id.*

- A description of the exact physical location of the place of business within the state;
- Proof of a garage liability insurance policy or a business automobile policy in the amount of \$100,000;
- Proof that the business is registered with the Division of Corporations of the Department of State to conduct business in the state; and
- A description of the business processes the business conducts that requires a need for a transporter license plate.

The business certificate of insurance must also indicate the number of transporter license plates reported to the insurance company, which will be the maximum number the DHSMV will issue to the applicant. The applicant is required to maintain such coverage for the entire transporter license plate registration period. The applicant is also required to maintain for two years, records of use for each transporter license plate. Such records must be at the business's location and open to inspection by the DHSMV or any law enforcement agency during reasonable business hours.

This section clarifies that the transporter license plate is only valid for use on an unregistered motor vehicle being transported in the course of the transporter's business and cannot be used on any motor vehicle that would require registration by the business. The DHSMV has authority to cancel any transporter license plate.

Finally, the section adds penalties for the improper use of transporter license plates. Specifically:

- A person who sells or unlawfully possesses, distributes, or brokers a transporter license plate to be attached to any vehicle commits a second-degree misdemeanor⁹³, and the plate is subject to removal;
- A person who fails to maintain true and accurate records of transporter license plate usage commits a second-degree misdemeanor⁹⁴, all transporter plates issued to the person may be subject to cancellation, and the person is disqualified from future transporter license plate issuance;
- A person who operates a motor vehicle with a transporter license plate attached who fails to provide the registration issued for the transporter license plate and proof of required insurance commits a second-degree misdemeanor⁹⁵, and the plate is subject to removal. This penalty does not apply to a person who contracts with dealers and auctions to transport motor vehicles; and
- A person who *knowingly and willfully* sells or unlawfully possesses, distributes, or brokers a transporter plate to avoid registering a vehicle that requires registration commits a first-degree misdemeanor⁹⁶, and all transporter plates issued to the person's business are canceled and must be returned to the DHSMV.

⁹³ The second-degree misdemeanor is punishable as provided in ss. 775.082 or 775.083, F.S., which is a definite term of imprisonment not exceeding 60 days or a fine of no more than \$500.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ The first-degree misdemeanor is punishable as provided in ss. 775.82 or 775.083, which is a definite term of imprisonment not exceeding one year or a fine of no more than \$1,000.

Motor Vehicle Dealer and Broker Definitions (Section 26)

Present Situation

Section 320.27(1)(c), F.S., defines a “motor vehicle dealer” as any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair vehicles pursuant to an agreement as defined in s. 320.60(1), F.S. A person who buys, sells, offers for sale, displays for sale or deals in three or more motor vehicles in any 12-month period is presumed to be a motor vehicle dealer.

Motor vehicle dealers are required to be licensed by the state to conduct business. To become a licensed motor vehicle dealer, a person or persons must have their business site approved by a Division of Motorist Services Regional Office, and submit an application to the DHSMV with required documentation and fees, which may include:⁹⁷

- An original \$25,000 surety bond or a letter of credit;
- A copy of the business location’s lease or proof of ownership;
- A copy of the pre-licensing dealer training course completion certificate;
- A garage liability insurance certificate, or a general liability insurance policy coupled with a business automobile policy;
- A copy of registration of business with Florida’s Secretary of State, Division of Corporations;
- A copy of specified corporate papers;
- A sales tax number and Federal Employer Identification number; and
- Fingerprints of the applicants to be submitted to the Florida Department of Law Enforcement for state processing, and then forwarded to the Federal Bureau of Investigation for federal processing.

Additionally, motor vehicle dealers are required to follow numerous state laws and procedures in order to maintain their dealer license. Any person who violates these license requirements can be found guilty of a second-degree misdemeanor⁹⁸, and could be liable under civil law in violation of Florida’s Deceptive and Unfair Trade Practices Act⁹⁹.

Section 320.27(1)(d), F.S., defines a “motor vehicle broker” as any person engaged in the business of offering to procure or procuring motor vehicles for the general public, including through solicitation or advertisement, but who does not store, display, or take ownership of any vehicle for the purpose of selling the vehicle.

Motor vehicle brokers are not considered motor vehicle dealers; thus, are not required to be licensed.

⁹⁷ See s. 320.27, F.S., and DHSMV website, *Licensing Requirements for Motor Vehicle Dealers*, <http://www.flhsmv.gov/dmv/dealer.html> (last visited April 19, 2017).

⁹⁸ Section 320.27(8), F.S.

⁹⁹ Part II, ch. 501, F.S.

Effect of Proposed Changes

Section 26 amends the definitions of “motor vehicle dealer” and “motor vehicle broker.” Specifically, it adds that the term “motor vehicle dealer” also includes any person:

- Who engages in possessing, storing, or displaying motor vehicles for retail sale;
- Who advertises motor vehicles for retail sale;
- Who negotiates with consumers regarding the terms of sale for a motor vehicle;
- Who provide test drivers of motor vehicles offered for sale; or
- Who deliver or arrange for delivery a motor vehicle in conjunction with the sale of such motor vehicle.

The section clarifies that a person is not a motor vehicle dealer if his or her sole dealing in motor vehicles is owning a publication or hosting a website that displays vehicles for sale by licensed motor vehicle dealers.

This section amends the term “motor vehicle broker,” which is defined in the bill as any person engaged in the business of assisting the general public in purchasing or leasing a motor vehicle from a licensed dealer, including through solicitation or advertisement, and is not considered a motor vehicle dealer.

The section adds that any advertisement or solicitation by a motor vehicle broker must include a statement that the broker is receiving a fee and that the person is not a licensed motor vehicle dealer.

FHP Law Enforcement Training Reimbursement (Section 27)***Present Situation***

Section 321.25, F.S., authorizes the DHSMV “to provide for the training of law enforcement officials and individuals in matters relating to the duties, functions, and powers of the Florida Highway Patrol...” The DHSMV is authorized to charge a fee for providing authorized training, as well as tuition, lodging, and meals. New FHP troopers receive 28 to 29 weeks of paid Law Enforcement Training at the FHP Training Academy. During this paid training, meals, lodging, equipment, and study materials are provided to FHP Academy trainees at no cost to the trainee.¹⁰⁰ The DHSMV estimates that the cost of training and other course expenses to the DHSMV is approximately \$12,386 per trooper trainee.¹⁰¹

In Florida, if an officer trainee who attends an approved training program at the expense of an employing agency terminates employment with such agency within two years after graduation from the basic recruit training program, he or she may be required to reimburse the employing agency for the full cost of tuition and other expenses.¹⁰² Section 943.16, F.S., allows an employing agency to institute a civil action to collect these expenses if it is not reimbursed, provided that the trainee signed acknowledgement of this requirement. Trainees are not required to reimburse the employing agency if they resign their law enforcement certification upon

¹⁰⁰ FHP, *Be A Trooper- Requirements- Benefits*, available at <http://beatrooper.com/requirements/> (last visited Feb. 10, 2017).

¹⁰¹ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

¹⁰² Section 943.16, F.S.

terminating employment. Additionally, an employing agency may waive the reimbursement requirement in part or in full for a trainee who terminates employment due to hardship or extenuating circumstances.¹⁰³

Since 2012, 86 FHP members terminated employment with the FHP within two years of completing training. According to the DHSMV, the FHP only pursues reimbursement if a trooper leaves within the two years to secure employment with another law enforcement agency.¹⁰⁴ An additional 37 FHP members terminated employment within the third year of completing FHP training.

Effect of Proposed Changes

Section 27 amends s. 321.21, F.S., relating specifically to FHP training, to increase the employment period length to which the reimbursement requirement applies from two years to three years. If an FHP trainee terminates employment with FHP prior to completing three years of service, the DHSMV may require the trainee to reimburse the cost of the FHP training tuition and other course expenses.

The amended section retains that the DHSMV may institute a civil action to collect tuition and other related expenses if it is not reimbursed, provided the trainee signed written acknowledgement of the (3-year) requirement. Additionally, the DHSMV retains authority to waive the reimbursement requirement in part or in full if the trainee terminates employment due to hardship or extenuating circumstances. However, the amendment removes the ability of FHP trainees to resign their law enforcement certification upon termination in order to avoid having to reimburse the DHSMV for the cost of tuition and other course expenses.

Digital Driver Licenses (Section 30)

Present Situation

Section 322.032, F.S.,¹⁰⁵ provides for the establishment of a digital proof of driver license. This section requires the DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license developed by DHSMV or by an entity contracted by the DHSMV is required to be in such a format as to allow law enforcement to verify the authenticity of the digital proof of driver license. DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.

A person may not be issued a digital proof of driver license until he or she has satisfied all of the requirements of Ch. 322, F.S., for issuance of a physical driver license.

This section also establishes certain penalties for a person who manufactures or possesses a false digital proof of driver license. Specifically, a person who:

¹⁰³ *Id.*

¹⁰⁴ DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

¹⁰⁵ This section was created in 2014. See ch. 2014-216, Laws of Fla.

- Manufactures a false digital proof of driver license commits a felony of the third degree, punishable by up to five years in prison¹⁰⁶ and a fine not to exceed \$5,000.¹⁰⁷
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by up to 60 days in prison.¹⁰⁸

Agency for State Technology

The Florida Legislature created the Agency for State Technology in 2014 to develop and publish state information technology policy, oversee state technology projects, and manage the State Data Center.¹⁰⁹

Effect of Proposed Changes

Section 30 amends s. 322.032, to require the DHSMV to collaborate with the Agency for State Technology to *establish and implement* secure and uniform protocols and standards for issuing an optional digital proof of driver license.

This section requires DHSMV to procure any application programming interface necessary to enable a private entity to securely manufacture a digital proof of driver license.

The bill also provides that displaying the digital proof of driver license does not constitute consent for the officer or agent to access any information on the device other than the digital proof of driver license. The person who presents the device to the officer assumes liability for any resulting damage to the device.

“D” Designation on ID card for Persons with PTSD or TBI (Section 31)

Present Situation

DHSMV may issue an identification card to any person who is 5 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit¹¹⁰ upon completion of an application and payment of a \$25 fee.¹¹¹

Section 320.051(8)(e), F.S., provides that upon request by a person who has a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, DHSMV issue an identification card exhibiting a capital “D” for the person, child, or ward if the person or the parent or guardian of the child or ward submits:

- Payment of an additional \$1 fee; and
- Proof acceptable to DHSMV of a diagnosis by a licensed physician of a developmental disability.¹¹²

¹⁰⁶ Section 775.082, F.S.,

¹⁰⁷ Section 775.083, F.S.

¹⁰⁸ Section 775.082, F.S.

¹⁰⁹ See Agency for State Technology, <http://www.ast.myflorida.com/> (last visited April 19, 2017).

¹¹⁰ Disabled parking permits are provided under s. 320.0848, F.S.

¹¹¹ Section 322.051, F.S.

¹¹² Section 393.063(12), F.S., defines “developmental disability” as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that

The above provision applies upon implementation of new designs for the driver license and identification card by the DHSMV.¹¹³

Effect of Proposed Changes

Section 31 amends s. 322.051(8)(e)1., F.S., adding persons with post-traumatic stress disorder (PTSD)¹¹⁴ or traumatic brain injury (TBI)¹¹⁵ to those individuals who may receive the “D” designation on his or her identification card. This also applies to a parent or guardian’s request for a child or ward.

Truancy Reporting (Section 33)

Present Situation

A minor is not eligible for driving privileges unless he or she¹¹⁶:

- Is enrolled in a public school, nonpublic school, or home education and satisfies relevant attendance requirements;
- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements; or
- Has been issued a certificate of exemption or hardship waiver under.

Subsection 322.091(5), F.S., requires the DHSMV to submit a report quarterly to each school district containing the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended under this section.

Effect of Proposed Changes

Section 33 amends subsection 322.091(5), F.S., to remove obsolete language. According to the DHSMV, access to this report is available to school boards electronically on an accessible website.¹¹⁷ The report via the website is updated in real-time whenever a new student is added.

manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

¹¹³ Section 3 of Ch. 2016-175, L.O.F.

¹¹⁴ PTSD is defined as a mental health condition that is triggered by a terrifying event. Symptoms include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event. See Mayo Clinic website, <http://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/home/ovc-20308548> (last visited Mar. 23, 2017).

¹¹⁵ TBI occurs when an external mechanical force causes brain dysfunction; usually from a violent blow or jolt to the head or body. See Mayo Clinic website, <http://www.mayoclinic.org/diseases-conditions/traumatic-brain-injury/basics/definition/con-20029302> (last visited Mar. 23, 2017).

¹¹⁶ Section 322.091, F.S.

¹¹⁷ Meeting with the DHSMV and Senate Transportation Committee Staff (Jan. 23, 2017).

Stolen Identification Cards (Section 36)

Present Situation

Section 322.17, F.S., provides that in the event that an instruction permit or driver license is stolen from an individual, upon proof of identity and proof satisfactory to the DHSMV that such permit or license was stolen (generally, with copy of a police report), a replacement permit or license will be issued at no cost to the individual.

Replacement driver licenses and identification cards cost \$25. According to the DHSMV, in Fiscal Year 2015-2016, individuals reported approximately 7,123 stolen identification cards to the DHSMV.¹¹⁸

Effect of Proposed Changes

Section 36 amends s. 322.17, F.S., to include that identification cards shall be replaced at no cost to an individual who provides proof of identity and proof satisfactory to the DHSMV that the card was stolen.

Specialty Driver License or Identification Cards (Section 37)

Present Situation

Section 322.1415, F.S., provided authority for DHSMV to issue specialty driver licenses and identification cards recognizing, at a minimum, Florida universities, Florida professional sports teams, and all branches of the United States Armed Forces. Additionally, s. 322.1415(5), F.S. provided that the section was repealed effective August 31, 2016.

The DHSMV is not currently authorized to offer expedited shipping services for renewal or replacement driver licenses or identification cards. The fastest way to receive a renewal or replacement driver license or identification card is to go in-person to a Florida driver license office. However, for individuals out-of-state or who cannot get to a driver license office, renewals and replacement driver licenses or identification cards may be requested using a convenience service¹¹⁹, including the DHSMV's virtual office¹²⁰.

According to the DHSMV, it can take seven to fourteen days to receive a renewal or replacement driver license or identification card after it is ordered from the DHSMV's virtual office.

Effect of Proposed Changes

Section 37 amends s. 322.21, F.S., to remove an obsolete reference to specialty driver license and identification card costs from s. 322.21, F.S.

This section also provides that an applicant for a renewal or replacement driver license or identification card, when using a convenience service, will have the option to request expedited

¹¹⁸ DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

¹¹⁹ Section 322.01(10), F.S., defines "convenience service" as "any means whereby an individual conducts a transaction with the department other than in person."

¹²⁰ Available at <https://services.flhsmv.gov/virtualoffice/Lobby.aspx> (last visited Feb. 13, 2017).

shipping. If the applicant chooses expedited shipping, the DHSMV shall issue the license or identification card within five working days of receiving the application and will ship the license or card using an expedited mail service. The DHSMV may charge a fee for the expedited shipping that does not exceed the cost of the expedited mail service. This shipping fee is in addition to any fee that would have been charged for the license or card, excluding the expedited shipping. The DHSMV shall deposit expedited shipping fees into the Highway Safety Operating Trust Fund.

For-hire Passenger Transportation - Financial Responsibility (Section 39)

Present Situation

Section 324.031, F.S., provides that the owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy, which policy is issued by an insurance carrier that is a member of the Florida Insurance Guaranty Association.¹²¹

The operator or owner of any other vehicle may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, furnishing a certificate of self-insurance showing a deposit of cash, or furnishing a certificate of self-insurance issued by the DHSMV. However, any person, including a firm, partnership, association, corporation, or other person, other than a natural person, proving financial responsibility by certificate of self-insurance showing a deposit of cash must have a deposit equal to the number of vehicles owned times \$30,000, to a maximum of \$120,000. In addition, such person must maintain insurance providing excess coverage of minimum limits of \$125,000/\$250,000/\$50,000 or \$300,000 combined single limits.

Effect of Proposed Changes

Section 39 amends s. 324.031, F.S., providing that a for-hire passenger transportation vehicle's motor vehicle liability policy must be provided by an insurer authorized to do business in this state and who is a member of the Florida Insurance Guaranty Association, or by eligible surplus lines insurer that has a superior, excellent, exceptional or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation of the Financial Services Commission.

The section also changes the excess minimum insurance limits required for persons proving financial responsibility by certificate of deposit, from \$125,000/\$250,000/\$50,000 to \$100,000/\$300,000/\$50,000.

Unauthorized Interference with Global Positioning Systems (Section 40)

Present Situation

Section 877.27, F.S., prohibits a person from making a radio transmission if he or she is not licensed or exempt for licensure by the Federal Communications Commission, or from causing

¹²¹ The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

an unlicensed radio transmission to interfere with a licensed radio public or commercial radio station. A person who violates this prohibition commits a third degree felony.

Global positioning system (GPS) jammers are devices using radio frequency transmitters in order to intentionally block, jam, or interfere with GPS systems. It is illegal to market, sell, or use GPS jammers in the United States.¹²² Such devices have been linked to cargo thefts throughout the United States.¹²³

Effect of Proposed Changes

Section 40 amends s. 877.27, F.S., to clearly prohibit a person from using a device prohibited by the Federal Communications Commission that would cause interference with the legal use of a GPS to track vehicles. A person who violates this prohibition commits a third degree felony.

Amending Cross-References (Sections 41-45)

Sections 41-45 amends numerous cross-references to reflect changes made by the bill.

Effective Date (Section 47)

Section 8 takes effect upon the same date that SB 340 or similar legislation takes effect.

Section 10 takes effect upon the adoption by rule of uniform traffic citation forms.

Section 14 takes effect July 1, 2018.

The remaining sections of the bill take effect October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹²² See GPS.gov, *Information About GPS Jamming*, <http://www.gps.gov/spectrum/jamming/> (last visited April 19, 2017).

¹²³ Federal Bureau of Investigation, Private Industry Notification 141002-001, *Cargo Thieves use GPS Jammers to Mask GPS Trackers* (Oct. 2, 2014), available at <https://info.publicintelligence.net/FBI-CargoThievesGPS.pdf> (last visited April 19, 2017).

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

The Revenue Estimating Conference (REC) reviewed some provisions in the bill on March 10, 2017.¹²⁴ The REC estimates that replacing stolen identification cards at no charge to a customer (section 36 of the bill) will reduce revenues deposited into the General Revenue Fund by an insignificant amount until Fiscal Years 2020 through 2022. Beginning 2020, the lost revenues are anticipated to be \$100,000 annually.

The REC estimates that allowing local tax collectors to retain fees or portions of fees for administering subsequent driver license examinations or reinstating licenses (sections 34 and 37) will shift approximately \$5 million of revenues from the annually to the local tax collectors.

Additionally, the REC estimates that authorizing expedited shipping fees for driver licenses and identification cards (section 11) will have an indeterminate impact in revenues to the extent that expedited shipping is requested.

B. Private Sector Impact:

The bill may have a positive impact for individuals who are:

- Issued a free replacement identification card to replace a stolen card (section 36);
- CMV operators who may replace a damaged apportioned license plate at no charge (sections 15 and 17);
- Not-for-hire truck operators within the state who may become eligible for the restricted agricultural special license plate (section 18);
- Businesses who may become eligible to use DHSMV's electronic filing system (section 14);
- Operators of autocycles (sections 20 and 24) who will not be required to obtain a motorcycle license or endorsement license, or to complete a motorcycle safety course and a motorcycle knowledge and skills test currently required to obtain such a license or endorsement; and

C. Surplus lines insurers (section 39).Government Sector Impact:

The bill makes changes to address compliance issues with federal laws relating to commercial motor vehicles (sections 1, 5, and 27). According to the DHSMV, if Florida fails to comply with FMCSA compatibility requirements, Florida may experience a reduction of up to four percent of Federal-aid highway funds following the first year of noncompliance and up to eight percent for subsequent years.¹²⁵ Noncompliance may also affect the potential award of future grants.

¹²⁴ Office of Economic and Demographic Research, Revenue Estimating Conference, *Highway Safety Fees – HB 545* (Mar. 10, 2017), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0310.pdf at p. 22-30 (last visited Mar. 15, 2017).

¹²⁵ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

To the extent that FHP troopers terminate employment for employment with another agency between their second and third year of service, the DHSMV may receive reimbursement for training costs from the individual (section 18). The DHSMV estimates that the cost of training and other course expenses to the DHSMV is approximately \$12,386 per trooper trainee.¹²⁶

The DHSMV will likely incur programming costs associated with changes made by the bill, as well as production costs to create Bronze Star license plates (section 24) and Purple Heart motorcycle plates (section 23).), and procurement costs to implement a digital proof of driver license (section 30).

The bill is intended to address a broad range of federal compliance, customer service and administrative efficiency issues; however, these changes have various indeterminate impacts to revenues and expenditures and the total fiscal impact of the bill on the government sector is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.2397, 316.2398, 316.302, 316.3025, 316.614, 316.85, 318.1215, 318.18, 320.01, 320.02, 320.03, 320.06, 320.0605, 320.0607, 320.08, 320.08056, 320.08058, 320.08068, 320.086, 320.089, 320.133, 320.27, 321.25, 322.01, 322.03, 322.032, 322.051, 322.08, 322.091, 322.12, 322.135, 322.17, 322.21, 322.61, 324.031, and 877.27.

This bill creates the following sections of the Florida Statutes: 316.851 and 320.0875.

This bill amends the following sections of the Florida Statutes to conform cross-references: 212.05, 316.303, 316.545, 316.613, and 655.960.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 18, 2017:

The CS adds the following issues to the bill:

¹²⁶ *Id.*

- Allows a person without a driver license to operate an autonomous vehicle in autonomous mode if the person cannot take control of the vehicle;
- Applies certain insurance coverage requirements, should legislation addressing insurance for transportation network companies (TNCs) become law, to autonomous vehicles used by TNCs to provide transportation, regardless of whether a human operator is physically present in the vehicle when the ride occurs;
- Authorizes a board of county commissioners to require, by ordinance, that the clerk of court collect an additional \$5 with each *criminal*, instead of *civil* traffic penalty, which is used to fund driver education programs in schools;
- Changes “construction zone” to “work zone” for the purpose of double speeding penalties in such zones if required signs are posted and workers are present;
- Requires tax collectors perform the same motor vehicle registration and driver license services for non-county residents as they do for their home county residents;
- Expands the allowable operations and authorized agents of the DHSMV electronic filing system;
- Revises the eligibility requirement for the agricultural restricted license plate to allow certain agricultural trucks that operate within the state, instead of within a 150-mile radius of the truck’s home address, be eligible for the restricted license plate;
- Authorizes a trailer to be considered a motor vehicle for purposes of receiving specified license plates;
- Clarifies the definition of motor vehicle dealers and motor vehicle brokers;
- Requires DHSMV work with the Agency for State Technology to provide digital proof of driver licenses;
- Allows for-hire passenger vehicles be insured by an eligible surplus lines insurer and modifies certain insurance limits; and
- Prohibits a person from using any device prohibited by the Federal Communications Commission that would cause interference with the legal use of a global positioning system to track vehicles.

The CS also:

- Amends the bill to allow the number of warning signals on a volunteer firefighter or medical staff vehicle to be determined by the responding agency;
- Delays the requirements for electronic logging devices and hours of service support documents for certain intrastate motor carriers until December 31, 2018; and
- Provides that tax collectors shall retain subsequent driver examination fees and specified driver license fees, *less the eight percent General Revenue Service Charge*.

CS by Transportation on March 22, 2017:

The CS adds several issues to the bill. Specifically, the CS:

- Creates a definition for an autocycle, requires occupants of autocycles to wear safety belts, and exempts drivers of autocycles from being required to have a motorcycle endorsement or motorcycles license, or from completing motorcycle knowledge and skills testing;
- Allows volunteer firefighters to use red and white, in addition to red, warning signals;

- Allows a person driving a rental vehicle who is stopped by a law enforcement officer or agent of the DHSMV to show an electronic copy of a rental agreement;
- Changes references to the organization “Prevent Blindness” to “Preserve Vision”;
- Creates a Purple Heart motorcycle special license plate;
- Creates a Bronze Star license plate;
- Removes specialty license plates from statute that have been discontinued by the DHSMV; and
- Allows a person diagnosed with PTSD or TBI to be eligible to receive a “D” designation on his or her ID card.

The CS modifies changes to the bill sections on the Issuance of Apportionable Vehicle Plates. The CS removes language from current law indicating that the cab card denotes the declared gross vehicle weight *for each jurisdiction in which the vehicle is authorized to operate*. The CS also changes that a \$28 annual fee is for an original and a renewed validation sticker, instead of for the annual cab card.

B. Amendments:

None.



265394

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Between lines 287 and 288
insert:

Section 2. Subsection (2) of section 316.193, Florida
Statutes, is amended to read:

316.193 Driving under the influence; penalties.—

(2)

(a) Except as provided in paragraph (b), subsection (3), or
subsection (4), any person who is convicted of a violation of



265394

subsection (1) shall be punished:

1. By a fine of:

a. Not less than \$500 or more than \$1,000 for a first conviction.

b. Not less than \$1,000 or more than \$2,000 for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not



265394

occur before July 1, 2003.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$2,000 or more than \$5,000 and by imprisonment for not more than 12 months. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such fourth or subsequent violation may be not less than \$2,000.

(c) In addition to the penalties in paragraph (a), as a condition of probation, the court may order placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 for at least 6 continuous months upon all vehicles that are ~~individually or jointly leased or owned and routinely operated by the convicted person if, at the time of the offense, the person had a blood-alcohol level or breath-alcohol level of .08~~



265394

~~or higher.~~ If the convicted person is convicted of a first offense misdemeanor of the second degree and has not caused injury to, or the death of, a person or damage to property and such person voluntarily places, or if the court orders placement of, an interlock device under this subsection, the court, upon proper showing that the person has received counseling, treatment, rehabilitation or is enrolled in a substance abuse course pursuant to subsection (5), may withhold adjudication if the person does not have a prior withholding of adjudication or adjudication of guilt for any other offense. Failure of the person to comply with the full terms of the order of placement of the ignition interlock device may result in, among other penalties, the court ordering an adjudication of guilt.

For purposes of this subsection, the term "conviction" means a determination of guilt which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

Section 3. Subsection (2) of section 316.1937, Florida Statutes, is amended to read:

316.1937 Ignition interlock devices, requiring; unlawful acts.—

(2) If the court imposes the use of an ignition interlock device, the court shall:

(a) Stipulate on the record the requirement for, and the period of, the use of a certified ignition interlock device.

(b) Order that the records of the department reflect such requirement.

(c) Order that an ignition interlock device be installed,



265394

as the court may determine necessary, on any vehicle owned or operated by the person.

(d) If the person claims inability to pay, provide the following discounts on the monthly leasing fee:

1. If a person's family income is at or below 100 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider shall be discounted by 50 percent.

2. If a person's family income is at or below 149 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider shall be discounted by 25 percent.

Persons who qualify for a reduced leasing fee as provided in this paragraph are not required to pay the costs of installation or removal of the device. ~~Determine the person's ability to pay for installation of the device if the person claims inability to pay. If the court determines that the person is unable to pay for installation of the device, the court may order that any portion of a fine paid by the person for a violation of s. 316.193 shall be allocated to defray the costs of installing the device.~~

(e) Require proof of installation of the device and periodic reporting to the department for verification of the operation of the device in the person's vehicle.

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



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And the title is amended as follows:

Delete line 5

and insert:

reference; amending s. 316.193, F.S.; authorizing a court to order placement of an ignition interlock device as a condition of probation, subject to certain requirements; authorizing the court to withhold adjudication if a person convicted of a certain offense voluntarily places, or if the court orders placement of, an ignition interlock device, under certain circumstances; providing that failure of the person to comply with the full terms of the order requiring placement of an ignition interlock device may result in the court ordering an adjudication of guilt; defining the term "conviction"; amending s. 316.1937, F.S.; requiring a court that imposes the use of an ignition interlock device to provide certain discounts on the monthly leasing fee for the device, if the person documents that he or she meets certain income requirements; waiving costs associated with installation and removal of the device in certain circumstances; amending ss. 316.2397 and 316.2398, F.S.;



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 421 - 425

and insert:

(e) The requirement for electronic logging devices and hours of service support documents will not go into effect for motor carriers engaged in intrastate commerce until December 31, 2018.

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



743126

11 And the title is amended as follows:
12 Delete line 16
13 and insert:
14 logging devices and hours of service support documents
15 for intrastate motor carriers;



838110

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 555 and 556
insert:

Section 9. Section 316.87, Florida Statutes, is amended to read:

316.87 Nonemergency medical transportation services.—To ensure the availability of nonemergency medical transportation services throughout the state, a provider licensed by the county or operating under a permit issued by the county may not be



838110

required to use a vehicle that is larger than needed to transport the number of persons being transported or that is inconsistent with the medical condition of the individuals receiving the nonemergency medical transportation services. A licensed basic or advanced life support ambulance service may provide nonemergency medical transportation in permitted ambulances in any county notwithstanding any ordinances relating to certificates of public convenience and necessity or s.

401.25. This section does not apply to the procurement, contracting, or provision of paratransit transportation services, directly or indirectly, by a county or an authority, pursuant to the Americans with Disabilities Act of 1990, as amended.

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

And the title is amended as follows:

Delete line 46

and insert:

times while operating in autonomous mode; amending s. 316.87, F.S.; authorizing a licensed basic or advanced life support ambulance service to provide nonemergency medical transportation in permitted ambulances in any county notwithstanding any ordinances relating to certificates of public convenience and necessity or a specified provision; amending s.



319724

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Substitute for Amendment (838110) (with title amendment)

Between lines 555 and 556
insert:

Section 9. Section 316.87, Florida Statutes, is amended to read:

316.87 Nonemergency medical transportation services.—
(1) To ensure the availability of nonemergency medical transportation services throughout the state, a provider



319724

licensed by the county or operating under a permit issued by the county may not be required to use a vehicle that is larger than needed to transport the number of persons being transported or that is inconsistent with the medical condition of the individuals receiving the nonemergency medical transportation services.

(2) A licensed basic or advanced life support ambulance service may provide nonemergency medical transportation in permitted ambulances in any county notwithstanding any ordinances relating to certificates of public convenience and necessity or s. 401.25. This subsection does not apply to a county located entirely within a designated rural area of opportunity or a county that has a population of more than 2.5 million residents according to the latest state or federal census.

(3) This section does not apply to the procurement, contracting, or provision of paratransit transportation services, directly or indirectly, by a county or an authority, pursuant to the Americans with Disabilities Act of 1990, as amended.

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

And the title is amended as follows:

Delete line 46
and insert:

times while operating in autonomous mode; amending s.
316.87, F.S.; authorizing a licensed basic or advanced
life support ambulance service to provide nonemergency
medical transportation in permitted ambulances in any



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40 county notwithstanding any ordinances relating to
41 certificates of public convenience and necessity or a
42 specified provision; providing applicability; amending
43 s.



670990

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 1080 and 1081
insert:

Section 19. Effective October 1, 2020, paragraph (a) of subsection (8) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(8)(a) The department must discontinue the issuance of an approved specialty license plate if the number of valid



670990

specialty plate registrations falls below 3,000 ~~1,000~~ plates for at least 12 consecutive months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 3,000 ~~1,000~~ plates. This paragraph does not apply to collegiate license plates established under s. 320.08058(3), license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, or Florida Professional Sports Team License plates established under s. 320.08058(9).

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

 Delete line 101
and insert:
 320.08056, F.S.; revising provisions for discontinuing issuance of a specialty plate; providing applicability; deleting the American Red Cross,



254818

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Braynon) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1081 - 1234

and insert:

Section 19. Subsection (2), paragraphs (ee), (eee), (qqq), and (rrr) of subsection (4), and paragraph (a) of subsection (10) of section 320.08056, Florida Statutes, are amended to read:

320.08056 Specialty license plates.—

(2) (a) The department shall issue a specialty license plate



254818

to the owner or lessee of any motor vehicle or a dealer under s. 320.13, except a vehicle registered under the International Registration Plan, a commercial truck required to display two license plates pursuant to s. 320.0706, or a truck tractor, upon request and payment of the appropriate license tax and fees.

(b) A dealer license plate under s. 320.13 may be a specialty license plate. The plate shall be differentiated from other specialty license plates by a decal, developed by the department, located on the upper left corner of the plate which identifies the specialty license plate as a dealer license plate.

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(cc) American Red Cross license plate, \$25.~~

~~(ccc) Donate Organs-Pass It On license plate, \$25.~~

~~(qqq) St. Johns River license plate, \$25.~~

~~(rrr) Hispanic Achievers license plate, \$25.~~

(10) (a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4) (d), (bb), (kk), (iii), and (uuu) ~~(ll), (kkk), and (yyy)~~ and s. 320.0891.

Section 20. Subsections (31), (57), (69), and (70) of



254818

section 320.08058, Florida Statutes, are repealed.

Section 21. Paragraph (b) of subsection (4) of section 320.08068, Florida Statutes, is amended to read:

320.08068 Motorcycle specialty license plates.—

(4) A license plate annual use fee of \$20 shall be collected for each motorcycle specialty license plate. Annual use fees shall be distributed to The Able Trust as custodial agent. The Able Trust may retain a maximum of 10 percent of the proceeds from the sale of the license plate for administrative costs. The Able Trust shall distribute the remaining funds as follows:

(b) Twenty percent to Preserve Vision ~~Prevent Blindness~~ Florida.

Section 22. Subsection (7) is added to section 320.086, Florida Statutes, to read:

320.086 Ancient or antique motor vehicles; horseless carriage, antique, or historical license plates; former military vehicles.—

(7) For purposes of this section, a trailer is considered a motor vehicle.

Section 23. Section 320.0875, Florida Statutes, is created to read:

320.0875 Purple Heart motorcycle special license plate.—

(1) Upon application to the department and payment of the license tax for the motorcycle as provided in s. 320.08, a resident of this state who owns or leases a motorcycle that is not used for hire or commercial use shall be issued a Purple Heart motorcycle special license plate if he or she provides documentation acceptable to the department that he or she is a



254818

recipient of the Purple Heart medal.

(2) The Purple Heart motorcycle special license plate shall be stamped with the words "Combat-wounded Veteran" followed by the serial number of the license plate. The Purple Heart motorcycle special license plate may have the term "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

Section 24. Paragraph (a) of subsection (1) of section 320.089, Florida Statutes, is amended to read:

~~320.089 Veterans of the United States Armed Forces; members of National Guard; survivors of Pearl Harbor; Purple Heart medal recipients; active or retired United States Armed Forces reservists; Combat Infantry Badge, Combat Medical Badge, or Combat Action Badge recipients; Combat Action Ribbon recipients; Air Force Combat Action Medal recipients; Distinguished Flying Cross recipients; former prisoners of war; Korean War Veterans; Vietnam War Veterans; Operation Desert Shield Veterans; Operation Desert Storm Veterans; Operation Enduring Freedom Veterans; Operation Iraqi Freedom Veterans; Women Veterans; World War II Veterans; and Navy Submariners; Special license plates for military servicemembers, veterans, and Pearl Harbor survivors; fee.—~~

(1)(a) Upon application to the department and payment of the license tax for the vehicle as provided in s. 320.08, a resident of this state who owns or leases ~~Each owner or lessee~~ of an automobile or truck for private use or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, shall be issued a license plate pursuant to the following if the applicant provides the



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department with proof he or she meets the qualifications listed
in this section for the applicable license plate:

1. A person released or discharged from any branch ~~who is a~~
~~resident of the state and a veteran~~ of the United States Armed
Forces shall be issued a license plate stamped with the words
"Veteran" or "Woman Veteran" followed by the serial number of
the license plate.~~, a Woman Veteran,~~

2. A World War II Veteran shall be issued a license plate
stamped with the words "WWII Veteran" followed by the serial
number of the license plate.7

3. A Navy Submariner shall be issued a license plate
stamped with the words "Navy Submariner" followed by the serial
number of the license plate.7

4. An active or retired member of the Florida National
Guard shall be issued a license plate stamped with the words
"National Guard" followed by the serial number of the license
plate.

5. A member of the Pearl Harbor Survivors Association or
other person on active military duty in Pearl Harbor on December
7, 1941, shall be issued a license plate stamped with the words
"Pearl Harbor Survivor" followed by the serial number of the
license plate.~~, a survivor of the attack on Pearl Harbor,~~

6. A recipient of the Purple Heart medal shall be issued a
license plate stamped with the words "Combat-wounded Veteran"
followed by the serial number of the license plate. The Purple
Heart plate may have the words "Purple Heart" stamped on the
plate and the likeness of the Purple Heart medal appearing on
the plate.7

7. An active or retired member of any branch of the United



254818

States Armed Forces Reserve shall be issued a license plate stamped with the words "U.S. Reserve" followed by the serial number of the license plate.

8. A member of the Combat Infantrymen's Association, Inc., or a recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, or Air Force Combat Action Medal shall be issued a license plate stamped with the words "Combat Infantry Badge," "Combat Medical Badge," "Combat Action Badge," "Combat Action Ribbon," or "Air Force Combat Action Medal," as appropriate, and a likeness of the related campaign badge, ribbon, or medal, followed by the serial number of the license plate.

9. A recipient of the, ~~or~~ Distinguished Flying Cross shall be issued a license plate stamped with the words "Distinguished Flying Cross" and a likeness of the Distinguished Flying Cross followed by the serial number of the license plate.

10. A recipient of the Bronze Star shall be issued a license plate stamped with the words "Bronze Star" and a likeness of the Bronze Star followed by the serial number of the license plate, ~~upon application to the department, accompanied by proof of release or discharge from any branch of the United States Armed Forces, proof of active membership or retired status in the Florida National Guard, proof of membership in the Pearl Harbor Survivors Association or proof of active military duty in Pearl Harbor on December 7, 1941, proof of being a Purple Heart medal recipient, proof of active or retired membership in any branch of the United States Armed Forces Reserve, or proof of membership in the Combat Infantrymen's Association, Inc., proof of being a recipient of the Combat~~



254818

~~Infantry Badge, Combat Medical Badge, Combat Action Badge,
Combat Action Ribbon, Air Force Combat Action Medal, or
Distinguished Flying Cross, and upon payment of the license tax
for the vehicle as provided in s. 320.08, shall be issued a
license plate as provided by s. 320.06 which, in lieu of the
serial numbers prescribed by s. 320.06, is stamped with the
words "Veteran," "Woman Veteran," "WWII Veteran," "Navy
Submariner," "National Guard," "Pearl Harbor Survivor," "Combat-
wounded veteran," "U.S. Reserve," "Combat Infantry Badge,"
"Combat Medical Badge," "Combat Action Badge," "Combat Action
Ribbon," "Air Force Combat Action Medal," or "Distinguished
Flying Cross," as appropriate, and a likeness of the related
campaign medal or badge, followed by the serial number of the
license plate. Additionally, the Purple Heart plate may have the
words "Purple Heart" stamped on the plate and the likeness of
the Purple Heart medal appearing on the plate.~~

Section 25. Subsection (4) is added to section 320.13,
Florida Statutes, to read:

320.13 Dealer and manufacturer license plates and
alternative method of registration.—

(4) A dealer license plate under this section may be a
specialty license plate pursuant to s. 320.08056(2). The plate
shall be differentiated from other specialty license plates by a
decals, developed by the department, located on the upper left
corner of the plate which identifies the specialty license plate
as a dealer license plate.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:



254818

185 Delete lines 101 - 120
186 and insert:
187 320.08056, F.S.; requiring the department to issue a
188 specialty license plate to a certain dealer;
189 authorizing a dealer license plate to be a specialty
190 license plate; requiring the plate to be
191 differentiated from other specialty license plates by
192 a decal, subject to certain requirements; deleting the
193 American Red Cross, Donate Organs-Pass It On, St.
194 Johns River, and Hispanic Achievers license plates;
195 conforming cross-references; repealing s.
196 320.08058(31), (57), (69), and (70), F.S., relating to
197 the American Red Cross, Donate Organs-Pass It On, St.
198 Johns River, and Hispanic Achievers license plates,
199 respectively; amending s. 320.08068, F.S.; requiring
200 The Able Trust to distribute a specified percentage of
201 annual use fees from motorcycle specialty license
202 plates to Preserve Vision Florida, rather than to
203 Prevent Blindness Florida; amending s. 320.086, F.S.;
204 providing that, for purposes of this section, a
205 trailer is considered a motor vehicle; creating s.
206 320.0875, F.S.; providing for a motorcycle special
207 license plate to be issued to a recipient of the
208 Purple Heart; providing requirements for the plate;
209 amending s. 320.089, F.S.; providing for a special
210 license plate to be issued to a recipient of the
211 Bronze Star; making technical changes; amending s.
212 320.13, F.S.; authorizing a dealer license plate to be
213 a specialty license plate; requiring the plate to be



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214 differentiated from other specialty license plates by
215 a decal, subject to certain requirements; amending s.



213662

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Braynon) recommended the following:

Senate Substitute for Amendment (254818) (with title amendment)

Between lines 2069 and 2070
insert:

Section 47. Paragraph (a) of subsection (3) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(3)(a) Registration license plates must be made of metal



213662

11 specially treated with a retroreflection material, as specified
12 by the department. The registration license plate is designed to
13 increase nighttime visibility and legibility and must be at
14 least 6 inches wide and not less than 12 inches in length,
15 unless a plate with reduced dimensions is deemed necessary by
16 the department to accommodate motorcycles, mopeds, or similar
17 smaller vehicles. Validation stickers must also be treated with
18 a retroreflection material, must be of such size as specified by
19 the department, and must adhere to the license plate. The
20 registration license plate must be imprinted with a combination
21 of bold letters and numerals or numerals, not to exceed seven
22 digits, to identify the registration license plate number. The
23 license plate must be imprinted with the word "Florida" at the
24 top and the name of the county in which it is sold, the state
25 motto, or the words "Sunshine State" at the bottom. Apportioned
26 license plates must have the word "Apportioned" at the bottom
27 and license plates issued for vehicles taxed under s.
28 320.08(3)(d), (4)(m) or (n), (5)(b) or (c), or (14) must have
29 the word "Restricted" at the bottom. License plates issued for
30 vehicles taxed under s. 320.08(12) must be imprinted with the
31 word "Florida" at the top and the word "Dealer" at the bottom
32 unless the license plate is a specialty license plate as
33 authorized in s. 320.08056. Manufacturer license plates issued
34 for vehicles taxed under s. 320.08(12) must be imprinted with
35 the word "Florida" at the top and the word "Manufacturer" at the
36 bottom. License plates issued for vehicles taxed under s.
37 320.08(5)(d) or (e) must be imprinted with the word "Wrecker" at
38 the bottom. Any county may, upon majority vote of the county
39 commission, elect to have the county name removed from the



213662

license plates sold in that county. The state motto or the words "Sunshine State" shall be printed in lieu thereof. A license plate issued for a vehicle taxed under s. 320.08(6) may not be assigned a registration license number, or be issued with any other distinctive character or designation, that distinguishes the motor vehicle as a for-hire motor vehicle.

Section 48. Paragraph (b) of subsection (2) of section 320.0657, Florida Statutes, is amended to read:

320.0657 Permanent registration; fleet license plates.—

(2)

(b) The plates, which shall be of a distinctive color, shall have the word "Fleet" appearing at the bottom and the word "Florida" appearing at the top unless the license plate is a specialty license plate as authorized in s. 320.08056. The plates shall conform in all respects to the provisions of this chapter, except as specified herein. For additional fees as set forth in s. 320.08056, fleet companies may purchase specialty license plates in lieu of the standard fleet license plates. Fleet companies shall be responsible for all costs associated with the specialty license plate, including all annual use fees, processing fees, fees associated with switching license plate types, and any other applicable fees.

Section 49. Subsection (12) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to



213662

and collected by the department or its agent upon the registration or renewal of registration of the following:

(12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised motor vehicle dealer, independent motor vehicle dealer, marine boat trailer dealer, or mobile home dealer and manufacturer license plate: \$17 flat, of which \$4.50 shall be deposited into the General Revenue Fund. For additional fees as set forth in s. 320.08056, dealers may purchase specialty license plates in lieu of the standard graphic dealer license plates. Dealers shall be responsible for all costs associated with the specialty license plate, including all annual use fees, processing fees, fees associated with switching license plate types, and any other applicable fees.

Section 50. Subsection (2) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(2)(a) The department shall issue a specialty license plate to the owner or lessee of any motor vehicle, except a vehicle registered under the International Registration Plan, a commercial truck required to display two license plates pursuant to s. 320.0706, or a truck tractor, upon request and payment of the appropriate license tax and fees.

(b) The department may authorize dealer and fleet specialty license plates. With the permission of the sponsoring specialty license plate organization, a dealer or fleet company may purchase specialty license plates to be used on dealer and fleet vehicles.

(c) Notwithstanding s. 320.08058, a dealer or fleet specialty license plate shall include the letters "DLR" or "FLT"



213662

on the right side of the license plate. Dealer and fleet
specialty license plates must be ordered directly through the
department.

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

And the title is amended as follows:

Delete line 253

and insert:

of certain changes made by the act; amending s.
320.06, F.S.; providing an exception to the design of
dealer license plates for specialty license plates;
amending s. 320.0657, F.S.; providing an exception to
the design of fleet license plates for specialty
license plates; authorizing fleet companies to
purchase specialty license plates in lieu of the
standard fleet license plates for additional specified
fees; requiring fleet companies to be responsible for
all costs associated with the specialty license plate;
amending s. 320.08, F.S.; authorizing dealers to
purchase specialty license plates in lieu of the
standard graphic dealer license plates for additional
specified fees; requiring dealers to be responsible
for all costs associated with the specialty license
plate; amending s. 320.08056, F.S.; allowing the
department to authorize dealer and fleet specialty
license plates; authorizing a dealer or fleet company
to purchase specialty license plates to be used on
dealer and fleet vehicles with the permission of the
sponsoring specialty license plate organization;



213662

127 requiring a dealer or fleet specialty license plate to
128 include specified letters on the right side of the
129 license plate; requiring dealer and fleet specialty
130 license plates to be ordered directly through the
131 department; providing



934212

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1081 - 1103

and insert:

Section 19. Paragraphs (ee), (eee), (qqq), and (rrr) of subsection (4) of section 320.08056, Florida Statutes, are amended, paragraph (bbbb) is added to that subsection, and paragraph (a) of subsection (10) of that section is amended, to read:

320.08056 Specialty license plates.—



934212

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(cc) American Red Cross license plate, \$25.~~

~~(ccc) Donate Organs Pass It On license plate, \$25.~~

~~(qqq) St. Johns River license plate, \$25.~~

~~(rrr) Hispanic Achievers license plate, \$25.~~

(bbbb) Ducks Unlimited license plate, \$25.

(10)(a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4)(d), (bb), (kk), (iii), and (uuu) ~~(ll), (kkk), and (yyy)~~ and s. 320.0891.

Section 20. Subsections (31), (57), (69), (70), and paragraph (b) of present subsection (80) of section 320.08058, Florida Statutes, are amended, and a new subsection (80) is added to that section, to read:

320.08058 Specialty license plates.—

~~(31) AMERICAN RED CROSS LICENSE PLATES.—~~

~~(a) Notwithstanding the provisions of s. 320.08053, the department shall develop an American Red Cross license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "American Red Cross" must appear at the bottom of the plate.~~



934212

~~(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, 50 percent of the annual use fees shall be distributed to the American Red Cross Chapter of Central Florida, with statistics on sales of license plates, which are tabulated by county. The American Red Cross Chapter of Central Florida must distribute to each of the chapters in this state the moneys received from sales in the counties covered by the respective chapters, which moneys must be used for education and disaster relief in Florida. Fifty percent of the annual use fees shall be distributed proportionately to the three statewide approved poison control centers for purposes of combating bioterrorism and other poison-related purposes.~~

~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.—~~

~~(a) The department shall develop a Donate Organs-Pass It On license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Donate Organs-Pass It On" must appear at the bottom of the plate.~~

~~(b) The annual use fees shall be distributed to Transplant Foundation, Inc., and shall use up to 10 percent of the proceeds from the annual use fee for marketing and administrative costs that are directly associated with the management and distribution of the proceeds. The remaining proceeds shall be used to provide statewide grants for patient services, including preoperative, rehabilitative, and housing assistance; organ donor education and awareness programs; and statewide medical research.~~

~~(69) ST. JOHNS RIVER LICENSE PLATES.—~~



934212

~~(a) The department shall develop a St. Johns River license plate as provided in this section. The St. Johns River license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "St. Johns River" must appear at the bottom of the plate.~~

~~(b) The requirements of s. 320.08053 must be met prior to the issuance of the plate. Thereafter, the license plate annual use fees shall be distributed to the St. Johns River Alliance, Inc., a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:~~

~~1. The St. Johns River Alliance, Inc., shall retain the first \$60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with education programs, conservation, research, and grant administration of the organization, and up to 10 percent may be used for promotion and marketing of the specialty license plate.~~

~~2. At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research or projects for which state funding is limited or not currently available. The remaining 50 percent shall be directed toward community outreach and access programs. The competitive grants shall be administered and approved by the board of directors of the St. Johns River Alliance, Inc. A grant advisory committee shall be composed of six members chosen by the St. Johns River Alliance board members.~~



934212

~~3. Any remaining funds shall be distributed with the approval of and accountability to the board of directors of the St. Johns River Alliance, Inc., and shall be used to support activities contributing to education, outreach, and springs conservation.~~

~~4. Effective July 1, 2014, the St. Johns River license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). The St. Johns River Alliance, Inc., shall have 24 months to record a minimum of 1,000 sales of the license plates. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the St. Johns River specialty plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the development and issuance of the plate. This subparagraph is repealed June 30, 2016.~~

~~(70) HISPANIC ACHIEVERS LICENSE PLATES.—~~

~~(a) Notwithstanding the requirements of s. 320.08053, the department shall develop a Hispanic Achievers license plate as provided in this section. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Hispanic Achievers" must appear at the bottom of the plate.~~

~~(b) The proceeds from the license plate annual use fee shall be distributed to National Hispanic Corporate Achievers, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal~~



934212

~~Revenue Code, to fund grants to nonprofit organizations to operate programs and provide scholarships and for marketing the Hispanic Achievers license plate. National Hispanic Corporate Achievers, Inc., shall establish a Hispanic Achievers Grant Council that shall provide recommendations for statewide grants from available Hispanic Achievers license plate proceeds to nonprofit organizations for programs and scholarships for Hispanic and minority Floridians. National Hispanic Corporate Achievers, Inc., shall also establish a Hispanic Achievers License Plate Fund. Moneys in the fund shall be used by the grant council as provided in this paragraph. All funds received under this subsection must be used in this state.~~

~~(c) National Hispanic Corporate Achievers, Inc., may retain all proceeds from the annual use fee until documented startup costs for developing and establishing the plate have been recovered. Thereafter, the proceeds from the annual use fee shall be used as follows:~~

~~1. Up to 5 percent of the proceeds may be used for the cost of administration of the Hispanic Achievers License Plate Fund, the Hispanic Achievers Grant Council, and related matters.~~

~~2. Funds may be used as necessary for annual audit or compliance affidavit costs.~~

~~3. Up to 20 percent of the proceeds may be used to market and promote the Hispanic Achievers license plate.~~

~~4. Twenty-five percent of the proceeds shall be used by the Hispanic Corporate Achievers, Inc., located in Seminole County, for grants.~~

~~5. The remaining proceeds shall be available to the Hispanic Achievers Grant Council to award grants for services,~~



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~~programs, or scholarships for Hispanic and minority individuals and organizations throughout Florida. All grant recipients must provide to the Hispanic Achievers Grant Council an annual program and financial report regarding the use of grant funds. Such reports must be available to the public.~~

~~(d) Effective July 1, 2014, the Hispanic Achievers license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc., shall have 24 months to record a minimum of 1,000 sales. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the Hispanic Achievers license plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the Hispanic Achievers license plate. This subsection is repealed June 30, 2016.~~

(76) (80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.-

~~(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to a maximum of 10 percent of the proceeds for marketing to promote and market the plate. All remaining proceeds shall be distributed to and used by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects. The remainder of the proceeds shall be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc.~~

(80) DUCKS UNLIMITED LICENSE PLATES.-



934212

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. Ducks Unlimited license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. A minimum of 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

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

And the title is amended as follows:

Delete lines 101 - 107
and insert:

320.08056, F.S.; deleting the American Red Cross,
Donate Organs-Pass It On, St. Johns River, and
Hispanic Achievers license plates; establishing an
annual use fee for the Ducks Unlimited license plate;
conforming cross-references; amending s. 320.08058,
F.S.; deleting the American Red Cross, Donate Organs-
Pass It On, St. Johns River, and Hispanic Achievers



934212

214 license plates; revising the distribution of proceeds
215 for the Fallen Law Enforcement Officers License Plate;
216 requiring the Department of Highway Safety and Motor
217 Vehicles to develop a Ducks Unlimited license plate;
218 providing for distribution and use of fees collected
219 from the sale of the plates;



652328

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Bean) recommended the following:

Senate Substitute for Amendment (934212) (with title amendment)

Delete lines 1081 - 1103
and insert:

Section 19. Paragraphs (ee), (eee), (qqq), and (rrr) of subsection (4) of section 320.08056, Florida Statutes, are amended, paragraphs (bbbb) through (gggg) are added to that subsection, and paragraph (a) of subsection (10) of that section is amended, to read:



652328

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(ee) American Red Cross license plate, \$25.~~

~~(eee) Donate Organs—Pass It On license plate, \$25.~~

~~(qqq) St. Johns River license plate, \$25.~~

~~(rrrr) Hispanic Achievers license plate, \$25.~~

(bbbb) Ducks Unlimited license plate, \$25.

(cccc) Play Ball license plate, \$25.

(dddd) America the Beautiful license plate, \$25.

(eeee) Protect Pollinators plate, \$25.

(ffff) Florida Native license plate, \$25.

(gggg) Donate Life Florida license plate, \$25.

(10) (a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4) (d), (bb), (kk), (iii), and (uuu) ~~(ll)~~, ~~(kkk)~~, and ~~(yyy)~~ and s. 320.0891.

Section 20. Subsections (31), (57), (69), (70), and paragraph (b) of present subsection (80) of section 320.08058, Florida Statutes, are amended, and new subsections (80) through (85) are added to that section, to read:

320.08056 Specialty license plates.—



652328

~~(31) AMERICAN RED CROSS LICENSE PLATES.—~~

~~(a) Notwithstanding the provisions of s. 320.08053, the department shall develop an American Red Cross license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "American Red Cross" must appear at the bottom of the plate.~~

~~(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, 50 percent of the annual use fees shall be distributed to the American Red Cross Chapter of Central Florida, with statistics on sales of license plates, which are tabulated by county. The American Red Cross Chapter of Central Florida must distribute to each of the chapters in this state the moneys received from sales in the counties covered by the respective chapters, which moneys must be used for education and disaster relief in Florida. Fifty percent of the annual use fees shall be distributed proportionately to the three statewide approved poison control centers for purposes of combating bioterrorism and other poison-related purposes.~~

~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.—~~

~~(a) The department shall develop a Donate Organs-Pass It On license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Donate Organs-Pass It On" must appear at the bottom of the plate.~~

~~(b) The annual use fees shall be distributed to Transplant Foundation, Inc., and shall use up to 10 percent of the proceeds from the annual use fee for marketing and administrative costs that are directly associated with the management and~~



652328

~~distribution of the proceeds. The remaining proceeds shall be used to provide statewide grants for patient services, including preoperative, rehabilitative, and housing assistance; organ donor education and awareness programs; and statewide medical research.~~

~~(69) ST. JOHNS RIVER LICENSE PLATES.—~~

~~(a) The department shall develop a St. Johns River license plate as provided in this section. The St. Johns River license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "St. Johns River" must appear at the bottom of the plate.~~

~~(b) The requirements of s. 320.08053 must be met prior to the issuance of the plate. Thereafter, the license plate annual use fees shall be distributed to the St. Johns River Alliance, Inc., a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:~~

~~1. The St. Johns River Alliance, Inc., shall retain the first \$60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with education programs, conservation, research, and grant administration of the organization, and up to 10 percent may be used for promotion and marketing of the specialty license plate.~~

~~2. At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research or projects for which state funding is limited or not~~



652328

98 ~~currently available. The remaining 50 percent shall be directed~~
99 ~~toward community outreach and access programs. The competitive~~
100 ~~grants shall be administered and approved by the board of~~
101 ~~directors of the St. Johns River Alliance, Inc. A grant advisory~~
102 ~~committee shall be composed of six members chosen by the St.~~
103 ~~Johns River Alliance board members.~~

104 ~~3. Any remaining funds shall be distributed with the~~
105 ~~approval of and accountability to the board of directors of the~~
106 ~~St. Johns River Alliance, Inc., and shall be used to support~~
107 ~~activities contributing to education, outreach, and springs~~
108 ~~conservation.~~

109 ~~4. Effective July 1, 2014, the St. Johns River license~~
110 ~~plate will shift into the presale voucher phase, as provided in~~
111 ~~s. 320.08053(2)(b). The St. Johns River Alliance, Inc., shall~~
112 ~~have 24 months to record a minimum of 1,000 sales of the license~~
113 ~~plates. Sales include existing active plates and vouchers sold~~
114 ~~subsequent to July 1, 2014. During the voucher period, new~~
115 ~~plates may not be issued, but existing plates may be renewed.~~
116 ~~If, at the conclusion of the 24-month presale period, the~~
117 ~~requirement of a minimum of 1,000 sales has been met, the~~
118 ~~department shall resume normal distribution of the St. Johns~~
119 ~~River specialty plate. If, after 24 months, the minimum of 1,000~~
120 ~~sales has not been met, the department shall discontinue the~~
121 ~~development and issuance of the plate. This subparagraph is~~
122 ~~repealed June 30, 2016.~~

123 ~~(70) HISPANIC ACHIEVERS LICENSE PLATES.—~~

124 ~~(a) Notwithstanding the requirements of s. 320.08053, the~~
125 ~~department shall develop a Hispanic Achievers license plate as~~
126 ~~provided in this section. The plate must bear the colors and~~



652328

~~design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Hispanic Achievers" must appear at the bottom of the plate.~~

~~(b) The proceeds from the license plate annual use fee shall be distributed to National Hispanic Corporate Achievers, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to fund grants to nonprofit organizations to operate programs and provide scholarships and for marketing the Hispanic Achievers license plate. National Hispanic Corporate Achievers, Inc., shall establish a Hispanic Achievers Grant Council that shall provide recommendations for statewide grants from available Hispanic Achievers license plate proceeds to nonprofit organizations for programs and scholarships for Hispanic and minority Floridians. National Hispanic Corporate Achievers, Inc., shall also establish a Hispanic Achievers License Plate Fund. Moneys in the fund shall be used by the grant council as provided in this paragraph. All funds received under this subsection must be used in this state.~~

~~(c) National Hispanic Corporate Achievers, Inc., may retain all proceeds from the annual use fee until documented startup costs for developing and establishing the plate have been recovered. Thereafter, the proceeds from the annual use fee shall be used as follows:~~

~~1. Up to 5 percent of the proceeds may be used for the cost of administration of the Hispanic Achievers License Plate Fund, the Hispanic Achievers Grant Council, and related matters.~~

~~2. Funds may be used as necessary for annual audit or compliance affidavit costs.~~

~~3. Up to 20 percent of the proceeds may be used to market~~



652328

~~and promote the Hispanic Achievers license plate.~~

~~4. Twenty-five percent of the proceeds shall be used by the Hispanic Corporate Achievers, Inc., located in Seminole County, for grants.~~

~~5. The remaining proceeds shall be available to the Hispanic Achievers Grant Council to award grants for services, programs, or scholarships for Hispanic and minority individuals and organizations throughout Florida. All grant recipients must provide to the Hispanic Achievers Grant Council an annual program and financial report regarding the use of grant funds. Such reports must be available to the public.~~

~~(d) Effective July 1, 2014, the Hispanic Achievers license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc., shall have 24 months to record a minimum of 1,000 sales. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the Hispanic Achievers license plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the Hispanic Achievers license plate. This subsection is repealed June 30, 2016.~~

~~(76)(80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.-~~

~~(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to a maximum of 10 percent of the proceeds for marketing to promote and market the plate. All remaining proceeds shall be distributed to and used~~



652328

by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects ~~The remainder of the proceeds shall be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc.~~

(80) DUCKS UNLIMITED LICENSE PLATES.—

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. Ducks Unlimited license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. A minimum of 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

(81) PLAY BALL LICENSE PLATES.—

(a) The department shall develop a Play Ball license plate as provided in this section and s. 320.08053. Play Ball license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Play Ball" must appear at the bottom of



652328

the plate.

(b) The license plate annual use fees shall be distributed to American Dream Baseball, Inc., which may retain all proceeds from the annual use fees until the startup costs for developing and issuing the license plates have been recovered. Thereafter, American Dream Baseball, Inc., may use the proceeds as follows:

1. A maximum of 15 percent may be used for administrative costs of the organization associated with implementing the programs funded by proceeds derived from sales of the specialty license plate.

2. A maximum of 10 percent may be used for promotion and marketing costs of the license plate.

3. The remainder shall be used to fund the activities, programs, and projects of American Dream Baseball, Inc.

(82) AMERICA THE BEAUTIFUL LICENSE PLATES.—

(a) The department shall develop an America The Beautiful license plate as provided in this section and s. 320.08053. The word "Florida" must appear at the top of the plate, and the words "America The Beautiful" must appear on the plate.

(b) The annual use fees from the plate shall be distributed to the America the Beautiful Fund as follows: 10 percent to offset its administrative, marketing and promotion costs, and the remaining 85 percent for projects and programs teaching character, leadership, and service to Florida youth; provision of wellbeing and assistance in the military community; outdoor education advancing self-sufficiency; wildlife conservation including imperiled and managed species; the maintenance of historic or culturally important sites, buildings, structures, or objects, and the development and modification of playgrounds,



652328

recreational areas, or other outdoor amenities, including
disability access.

(83) PROTECT POLLINATORS PLATES.—

(a) The department shall develop a Protect Pollinators
license plate as provided in this section and s. 320.08053. The
word "Florida" must appear at the top of the plate, and the
words "Protect Pollinators" must appear at the bottom of the
plate.

(b) The annual use fees from the sale of the plate shall be
distributed to the Florida Wildflower Foundation Inc., which:

1. May use a maximum of 10 percent of the proceeds to
market, promote, and administer the Protect Pollinators plate.

2. Shall use the remainder of the proceeds to establish
pollinator wildflower habitats, fund pollinator education and
research programs, and promote awareness of pollinators,
including butterflies, native bees and honeybees, hummingbirds,
bats, and hundreds of other insects and animal pollinator
species, and their importance to Florida agricultural success
and the security of the food supply.

(84) FLORIDA NATIVE LICENSE PLATES.—

(a) The department shall develop a Florida Native license
plate as provided in this section and s. 320.08053. The word
"Florida" must appear at the top of the plate, and the word
"Native" must appear at the bottom of the plate. The plate must
contain a camouflage background including leaves, flowers, or
fronds of a minimum of 12 different Florida native plants.

(b)1. The department shall retain all annual use fees from
the sale of the plate until all startup costs for developing and
issuing the plate have been recovered.



652328

2. Thereafter, the annual use fees from the sale of the plate shall be distributed to Florida Native Plant Society, a Florida nonprofit corporation, which may use a maximum of 10 percent of such fees for administrative costs and a maximum of 20 percent to market and promote the plate. The balance of the fees shall be used by Florida Native Plant Society, to fulfill the mission of the Florida Native Plant Society, where a minimum of 25 percent is dedicated to maintaining, improving, and restoring public native species, hunting and fishing habitats, and 25 percent is used to promote the cultivation of Florida's agricultural products through the preservation of native noncrop plants to provide habitats for pollinators and natural enemies to plant pests, and to provide pollen and nectar and undisturbed habitats for bee nesting throughout the growing season.

(85) DONATE LIFE FLORIDA LICENSE PLATES.—

(a) The department shall develop a Donate Life Florida license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Donors Saves Lives" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs. The remaining proceeds of the annual use fees shall be used by the Donate Life Florida to educate Florida residents on the importance of organ, tissue and eye donation and for the continued maintenance of the Joshua Abbott Organ and Tissue Donor Registry.



652328

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

And the title is amended as follows:

Delete lines 101 - 107

and insert:

320.08056, F.S.; deleting the American Red Cross,
Donate Organs-Pass It On, St. Johns River, and
Hispanic Achievers license plates; establishing an
annual use fee for certain specialty license plate;
conforming cross-references; amending s. 320.08058,
F.S.; deleting the American Red Cross, Donate Organs-
Pass It On, St. Johns River, and Hispanic Achievers
license plates; revising the distribution of proceeds
for the Fallen Law Enforcement Officers License Plate;
requiring the Department of Highway Safety and Motor
Vehicles to develop certain specialty license plates;
providing for distribution and use of fees collected
from the sale of the plates;



403134

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gainer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1081 - 1103

and insert:

Section 19. Paragraphs (ee), (eee), (qqq), and (rrr) of subsection (4) of section 320.08056, Florida Statutes, are amended, paragraph (bbbb) is added to that subsection, and paragraph (a) of subsection (10) of that section is amended, to read:

320.08056 Specialty license plates.—



403134

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(cc) American Red Cross license plate, \$25.~~

~~(ccc) Donate Organs Pass It On license plate, \$25.~~

~~(qqq) St. Johns River license plate, \$25.~~

~~(rrr) Hispanic Achievers license plate, \$25.~~

(bbbb) Florida State Beekeepers Association license plate, \$25.

(10)(a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4)(d), (bb), (kk), (iii), and (uuu) ~~(ll), (kkk), and (yyy)~~ and s. 320.0891.

Section 20. Subsections (31), (57), (69), (70) of section 320.08058, Florida Statutes, are amended, and a new subsection (80) is added to that section, to read:

320.08058 Specialty license plates.—

~~(31) AMERICAN RED CROSS LICENSE PLATES.—~~

~~(a) Notwithstanding the provisions of s. 320.08053, the department shall develop an American Red Cross license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "American Red Cross" must appear at the bottom of the plate.~~



403134

~~(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, 50 percent of the annual use fees shall be distributed to the American Red Cross Chapter of Central Florida, with statistics on sales of license plates, which are tabulated by county. The American Red Cross Chapter of Central Florida must distribute to each of the chapters in this state the moneys received from sales in the counties covered by the respective chapters, which moneys must be used for education and disaster relief in Florida. Fifty percent of the annual use fees shall be distributed proportionately to the three statewide approved poison control centers for purposes of combating bioterrorism and other poison-related purposes.~~

~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.—~~

~~(a) The department shall develop a Donate Organs-Pass It On license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Donate Organs-Pass It On" must appear at the bottom of the plate.~~

~~(b) The annual use fees shall be distributed to Transplant Foundation, Inc., and shall use up to 10 percent of the proceeds from the annual use fee for marketing and administrative costs that are directly associated with the management and distribution of the proceeds. The remaining proceeds shall be used to provide statewide grants for patient services, including preoperative, rehabilitative, and housing assistance; organ donor education and awareness programs; and statewide medical research.~~

~~(69) ST. JOHNS RIVER LICENSE PLATES.—~~



403134

~~(a) The department shall develop a St. Johns River license plate as provided in this section. The St. Johns River license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "St. Johns River" must appear at the bottom of the plate.~~

~~(b) The requirements of s. 320.08053 must be met prior to the issuance of the plate. Thereafter, the license plate annual use fees shall be distributed to the St. Johns River Alliance, Inc., a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:~~

~~1. The St. Johns River Alliance, Inc., shall retain the first \$60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with education programs, conservation, research, and grant administration of the organization, and up to 10 percent may be used for promotion and marketing of the specialty license plate.~~

~~2. At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research or projects for which state funding is limited or not currently available. The remaining 50 percent shall be directed toward community outreach and access programs. The competitive grants shall be administered and approved by the board of directors of the St. Johns River Alliance, Inc. A grant advisory committee shall be composed of six members chosen by the St. Johns River Alliance board members.~~



403134

~~3. Any remaining funds shall be distributed with the approval of and accountability to the board of directors of the St. Johns River Alliance, Inc., and shall be used to support activities contributing to education, outreach, and springs conservation.~~

~~4. Effective July 1, 2014, the St. Johns River license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). The St. Johns River Alliance, Inc., shall have 24 months to record a minimum of 1,000 sales of the license plates. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the St. Johns River specialty plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the development and issuance of the plate. This subparagraph is repealed June 30, 2016.~~

~~(70) HISPANIC ACHIEVERS LICENSE PLATES.—~~

~~(a) Notwithstanding the requirements of s. 320.08053, the department shall develop a Hispanic Achievers license plate as provided in this section. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Hispanic Achievers" must appear at the bottom of the plate.~~

~~(b) The proceeds from the license plate annual use fee shall be distributed to National Hispanic Corporate Achievers, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal~~



403134

~~Revenue Code, to fund grants to nonprofit organizations to operate programs and provide scholarships and for marketing the Hispanic Achievers license plate. National Hispanic Corporate Achievers, Inc., shall establish a Hispanic Achievers Grant Council that shall provide recommendations for statewide grants from available Hispanic Achievers license plate proceeds to nonprofit organizations for programs and scholarships for Hispanic and minority Floridians. National Hispanic Corporate Achievers, Inc., shall also establish a Hispanic Achievers License Plate Fund. Moneys in the fund shall be used by the grant council as provided in this paragraph. All funds received under this subsection must be used in this state.~~

~~(c) National Hispanic Corporate Achievers, Inc., may retain all proceeds from the annual use fee until documented startup costs for developing and establishing the plate have been recovered. Thereafter, the proceeds from the annual use fee shall be used as follows:~~

~~1. Up to 5 percent of the proceeds may be used for the cost of administration of the Hispanic Achievers License Plate Fund, the Hispanic Achievers Grant Council, and related matters.~~

~~2. Funds may be used as necessary for annual audit or compliance affidavit costs.~~

~~3. Up to 20 percent of the proceeds may be used to market and promote the Hispanic Achievers license plate.~~

~~4. Twenty-five percent of the proceeds shall be used by the Hispanic Corporate Achievers, Inc., located in Seminole County, for grants.~~

~~5. The remaining proceeds shall be available to the Hispanic Achievers Grant Council to award grants for services,~~



403134

~~programs, or scholarships for Hispanic and minority individuals and organizations throughout Florida. All grant recipients must provide to the Hispanic Achievers Grant Council an annual program and financial report regarding the use of grant funds. Such reports must be available to the public.~~

~~(d) Effective July 1, 2014, the Hispanic Achievers license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc., shall have 24 months to record a minimum of 1,000 sales. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the Hispanic Achievers license plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the Hispanic Achievers license plate. This subsection is repealed June 30, 2016.~~

(80) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.-

(a) The department shall develop a Florida State Beekeepers Association license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Save the Bees" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the Florida State Beekeepers Association, a Florida nonprofit corporation. The Florida State Beekeepers Association may use up to 18 percent of the annual use fees for:



403134

1. Direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process of the license plate. All vendors associated with the administrative costs shall be selected by competitive bid.

2. Promotion and marketing costs of the license plate.

(c) The remaining funds shall be distributed to the Florida State Beekeepers Association and shall be used to raise awareness of the importance of beekeeping to Florida agriculture by funding honeybee research, education, outreach, and husbandry. The Florida State Beekeepers Association board of managers must approve and is accountable for all such expenditures.

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

And the title is amended as follows:

Delete lines 101 - 107
and insert:

320.08056, F.S.; deleting the American Red Cross, Donate Organs-Pass It On, St. Johns River, and Hispanic Achievers license plates; establishing an annual use fee for the Florida State Beekeepers Association license plate; conforming cross-references; amending s. 320.08058, F.S.; deleting the American Red Cross, Donate Organs-Pass It On, St. Johns River, and Hispanic Achievers license plates; requiring the Department of Highway Safety and Motor Vehicles to develop a Florida State Beekeepers Association license plate; providing for distribution and use of fees collected from the sale of the plates;



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 1234 and 1235
insert:

Section 25. Subsection (10) is added to section 320.131,
Florida Statutes, to read:

320.131 Temporary tags.—

(10) Beginning October 1, 2017, the department may partner
with a county tax collector to conduct a Fleet Vehicle Temporary
Tag pilot program to provide temporary tags to fleet companies



407566

11 to allow them to operate fleet vehicles awaiting a permanent
12 registration and title.

13 (a) The department shall establish a memorandum of
14 understanding that allows a maximum of three companies to
15 participate in the pilot program to receive multiple temporary
16 tags for company fleet vehicles.

17 (b) To participate in the program a fleet company must have
18 a minimum of 3,500 fleet vehicles registered in this state that
19 qualify to be registered as fleet vehicles pursuant to s.
20 320.0657.

21 (c) The department may issue up to 50 temporary tags at a
22 time to an eligible fleet company, if requested by such company.

23 (d) The temporary tags are for exclusive use for a vehicle
24 purchased for the company's fleet, and may not be used on any
25 other vehicle.

26 (e) Each temporary plate may be used by only one vehicle
27 and each vehicle may only use one temporary plate.

28 (f) Upon issuance of the vehicle's permanent license plate
29 and registration, the temporary tag becomes invalid and must be
30 removed from the vehicle and destroyed.

31 (g) Upon a finding by the department that a temporary tag
32 has been misused by a fleet company under this program, the
33 department may terminate the memorandum of understanding with
34 the company, invalidate all temporary tags issued to the company
35 under this program, and require such company to return any
36 unused temporary tags.

37 (h) This subsection is repealed on October 1, 2019, unless
38 saved from repeal through reenactment by the Legislature.
39



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

41 And the title is amended as follows:

42 Between lines 120 and 121

43 insert:

44 320.131, F.S.; creating a Fleet Vehicle Temporary Tag
45 pilot program; amending s.



349606

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gainer) recommended the following:

Senate Amendment (with title amendment)

Between lines 1727 and 1728

insert:

Section 36. Section 322.161, Florida Statutes, is amended to read:

322.161 High-risk drivers; restricted licenses.—

(1) This section may be cited as the "Brittany Baxter Act."

(2) ~~(1)~~ (a) Notwithstanding any provision of law to the contrary, the department shall restrict the driving privilege of



349606

any Class E licensee who is age 15 through 17 and who has accumulated six or more points pursuant to s. 318.14, excluding parking violations, within an 18-month ~~a 12-month~~ period.

(b) Upon determination that any person has accumulated seven ~~six~~ or more points, the department shall notify the licensee and issue the licensee a restricted license for business purposes only. The licensee must appear before the department within 10 days after notification to have this restriction applied. The period of restriction shall be for ~~a period of no less than 1 year~~ 30 days beginning on the date it is applied by the department. During the period of restriction, the licensee must complete a 12-hour approved advanced driver improvement course and receive 4 hours of behind-the-wheel training from a Florida licensed commercial driving school. Successful completion of a behind-the-wheel examination is required in order to receive completion credit for the course.

(c) The restriction shall be automatically withdrawn by the department after 1 year if the licensee has completed such driver improvement course approved by the department and does not accumulate any additional points. If the licensee has not completed the course requirement, the period of restriction shall be extended until such time as the licensee completes the course requirement. If the licensee accumulates any additional points, ~~then~~ the period of restriction shall be extended for at least 90 days and up to one year for each point. The restriction shall also be automatically withdrawn upon the licensee's 18th birthday if no other grounds for restriction exist. The licensee must appear before the department to have the restriction removed and a duplicate license issued.



349606

40 (3)~~(2)~~ Any action taken by the department pursuant to this
41 section shall not be subject to any formal or informal
42 administrative hearing or similar administrative procedure.
43

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

45 And the title is amended as follows:

46 Between lines 214 and 215

47 insert:

48 322.161; providing a short title; revising the period
49 of time in which certain licensees may accumulate
50 points before being issued a restricted driver license
51 by the department; requiring restricted licensees to
52 attend a driver improvement course approved by the
53 department; providing for extension of the restriction
54 period under certain circumstances;



292206

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Between lines 1925 and 1926
insert:

Section 40. Subsection (1) of section 531.37, Florida
Statutes, is amended to read:

531.37 Definitions.—As used in this chapter:

(1) "Weights and measures" means all weights and measures
of every kind, instruments, and devices for weighing and
measuring, and any appliance and accessories associated with any



292206

or all such instruments and devices, excluding taximeters,
transportation measurement systems, and those weights and
measures used for the purpose of inspecting the accuracy of
devices used in conjunction with aviation fuel.

Section 41. Subsection (1) of section 531.61, Florida
Statutes, is amended, and present subsections (2) and (3) of
that section are redesignated as subsections (1) and (2),
respectively, to read:

531.61 Exemptions from permit requirement.—Commercial
weights or measures instruments or devices are exempt from the
requirements of ss. 531.60-531.66 if:

~~(1) The device is a taximeter that is licensed, permitted,
or registered by a municipality, county, or other local
government and is tested for accuracy and compliance with state
standards by the local government in cooperation with the state
as authorized in s. 531.421.~~

Section 42. Paragraph (g) of subsection (2) of section
531.63, Florida Statutes, is amended, and present paragraphs (h)
and (i) of that subsection are redesignated as paragraphs (g)
and (h), respectively, to read:

531.63 Maximum permit fees.—The commercial use permit fees
established for weights or measures instruments or devices shall
be in an amount necessary to administer this chapter but may not
exceed the amounts provided in this section.

(2) For other measuring devices, the annual permit fees per
device may not exceed the following:

~~(g) Taximeters.....\$50.~~

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



292206

40 And the title is amended as follows:
41 Delete line 246
42 and insert:
43 cash; amending s. 531.37, F.S.; revising the
44 definition of the term "weights and measures";
45 amending s. 531.61, F.S.; deleting a provision
46 exempting certain taximeters from specified permit
47 requirements; amending s. 531.63, F.S.; deleting a
48 provision prohibiting the annual permit fees for
49 taximeters from exceeding \$50; amending s. 877.27,
50 F.S.; prohibiting a person



314566

576-04061-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to motor vehicles; amending s.
316.003, F.S.; defining the term "autocycle";
redefining the term "motorcycle"; conforming a cross-
reference; amending ss. 316.2397 and 316.2398, F.S.;
prohibiting vehicles or equipment from showing or
displaying red and white lights while being driven or
moved; authorizing firefighters to use or display red
and white lights under certain circumstances;
authorizing active volunteer firefighters to display
red and white warning signals under certain
circumstances; amending s. 316.302, F.S.; revising
provisions relating to federal regulations to which
owners and drivers of commercial motor vehicles are
subject; delaying the requirement for electronic
logging devices for intrastate motor carriers;
terminating the maximum amount of a civil penalty for
falsification of information on certain time records;
deleting the requirement that a motor carrier maintain
documentation of a driver's driving times throughout a
duty period if the driver is not released from duty
within a specified period; providing an exemption from
specified rules and regulations for a person who
operates a commercial motor vehicle with a declared
gross vehicle weight, gross vehicle weight rating, and
gross combined weight rating of less than a specified



314566

576-04061-17

amount under certain circumstances; amending s.
316.3025, F.S.; conforming provisions to changes made
by the act; amending s. 316.614, F.S.; redefining the
term "motor vehicle"; prohibiting a person from
operating an autocycle unless certain safety belt or
child restraint device requirements are met; amending
s. 316.85, F.S.; authorizing a person who possesses a
valid driver license to engage autonomous technology
to operate an autonomous vehicle under a specified
circumstance; authorizing a person who does not
possess a valid driver license to engage autonomous
technology to operate an autonomous vehicle in
autonomous mode under certain circumstances; creating
s. 316.851, F.S.; requiring an autonomous vehicle used
by a transportation network company to be covered by
automobile insurance, subject to certain requirements;
requiring an autonomous vehicle used to provide a
transportation service to carry in the vehicle proof
of coverage satisfying certain requirements at all
times while operating in autonomous mode; amending s.
318.1215, F.S.; authorizing a board of county
commissioners to require, by ordinance, that the clerk
of the court collect an additional specified fee with
each criminal, rather than each civil, traffic
penalty; amending s. 318.18, F.S.; changing the term
"construction zone" to "work zone" as it relates to
enhanced penalties for unlawful speed; amending s.
320.01, F.S.; redefining the terms "apportionable
vehicle" and "motorcycle"; amending s. 320.02, F.S.;



314566

576-04061-17

56 requiring an application form for motor vehicle
57 registration to include language authorizing a
58 voluntary contribution to be distributed to Preserve
59 Vision Florida, rather than to Prevent Blindness
60 Florida; amending s. 320.03, F.S.; requiring tax
61 collectors to provide motor vehicle registration
62 services to residents of other counties; providing
63 that jurisdiction over the electronic filing system
64 for use by authorized electronic filing system agents
65 to process title transactions, derelict motor vehicle
66 certificates, and certificates of destruction for
67 derelict and salvage motor vehicles is preempted to
68 the state; authorizing an entity that, in the normal
69 course of its business, processes title transactions,
70 derelict motor vehicle certificates, or certificates
71 of destruction for derelict or salvage motor vehicles
72 to be an authorized electronic filing system agent;
73 authorizing the department to adopt rules to
74 administer specified provisions; amending s. 320.06,
75 F.S.; providing for future repeal of issuance of a
76 certain annual license plate and cab card to a vehicle
77 that has an apportioned registration; providing
78 requirements, beginning on a specified date, for
79 license plates, cab cards, and validation stickers for
80 vehicles registered in accordance with the
81 International Registration Plan; authorizing a worn or
82 damaged license plate to be replaced at no charge
83 under certain circumstances; amending s. 320.0605,
84 F.S.; authorizing presentation of electronic



314566

576-04061-17

85 documentation of certain information to a law
86 enforcement officer or agent of the department;
87 providing construction; providing liability; revising
88 information required in such documentation; amending
89 s. 320.0607, F.S.; providing an exemption, beginning
90 on a specified date, of a certain fee for vehicles
91 registered under the International Registration Plan;
92 amending s. 320.08, F.S.; requiring a truck tractor
93 used within this state to be eligible for a license
94 plate for a specified fee under certain circumstances;
95 requiring a truck tractor or heavy truck, not operated
96 as a for-hire vehicle, which is engaged exclusively in
97 transporting raw, unprocessed, and nonmanufactured
98 agricultural or horticultural products within this
99 state to be eligible for a restricted license for a
100 certain fee; conforming cross-references; amending s.
101 320.08056, F.S.; deleting the American Red Cross,
102 Donate Organs-Pass It On, St. Johns River, and
103 Hispanic Achievers license plates; conforming cross-
104 references; repealing s. 320.08058(31), (57), (69),
105 and (70), F.S., relating to the American Red Cross,
106 Donate Organs-Pass It On, St. Johns River, and
107 Hispanic Achievers license plates, respectively;
108 amending s. 320.08068, F.S.; requiring The Able Trust
109 to distribute a specified percentage of annual use
110 fees from motorcycle specialty license plates to
111 Preserve Vision Florida, rather than to Prevent
112 Blindness Florida; amending s. 320.086, F.S.;
113 providing that, for purposes of this section, a



314566

576-04061-17

114 trailer is considered a motor vehicle; creating s.
115 320.0875, F.S.; providing for a motorcycle special
116 license plate to be issued to a recipient of the
117 Purple Heart; providing requirements for the plate;
118 amending s. 320.089, F.S.; providing for a special
119 license plate to be issued to a recipient of the
120 Bronze Star; making technical changes; amending s.
121 320.133, F.S.; defining the term "transporter license
122 plate eligible business"; providing that a person is
123 not eligible to purchase or renew a transporter
124 license plate unless he or she provides certain proof
125 that his or her business is a transporter license
126 plate eligible business; providing application and
127 insurance requirements for qualification as a
128 transporter license plate eligible business;
129 authorizing the department to issue a transporter
130 license plate to an applicant who is not a licensed
131 dealer and is qualified as a transporter license plate
132 eligible business, under certain circumstances;
133 providing that a transporter license plate is valid
134 only for use on an unregistered motor vehicle in the
135 possession of the transporter, subject to certain
136 requirements; providing a criminal penalty for a
137 person who sells or unlawfully possesses, distributes,
138 or brokers a transporter license plate to be attached
139 to any vehicle; providing that transporter license
140 plates are subject to cancellation by the department;
141 providing a criminal penalty and disqualification from
142 transporter license plate usage for a person who



314566

576-04061-17

143 knowingly and willfully sells or unlawfully possesses,
144 distributes, or brokers a transporter license plate to
145 avoid registering a vehicle requiring registration,
146 subject to certain requirements; providing
147 recordkeeping requirements for a transporter license
148 plate eligible business; providing a criminal penalty,
149 cancellation of transporter license plates, and
150 disqualification from future issuance of the plates
151 for a violation of such recordkeeping requirements;
152 requiring a transporter license plate issued under
153 this section to be accompanied by registration and
154 proof of insurance when attached to a motor vehicle;
155 providing a criminal penalty and removal of the
156 license plate for a person who fails to provide such
157 documentation; providing an exemption to persons who
158 contract with dealers and auctions to transport motor
159 vehicles; conforming provisions to changes made by the
160 act; providing that an initial registration or renewal
161 issued under this section is valid for a specified
162 period; requiring a license plate attached to a motor
163 vehicle in violation of specified provision to be
164 removed by a law enforcement officer and surrendered
165 to the department by the law enforcement agency for
166 cancellation; amending s. 320.27, F.S.; revising the
167 definitions of "motor vehicle dealer" and "motor
168 vehicle broker"; requiring any person acting in
169 violation of specified licensing requirements to be
170 deemed to have committed an unfair and deceptive trade
171 practice in violation of specified provisions; making



314566

576-04061-17

172 technical changes; amending s. 321.25, F.S.; providing
173 for reimbursement to the department of tuition and
174 other course expenses for certain training under
175 certain circumstances; defining the term "other course
176 expenses"; authorizing the department to institute a
177 civil action under certain circumstances; authorizing
178 the department to waive a person's requirement of
179 reimbursement when the person terminates employment
180 due to hardship or extenuating circumstances; amending
181 s. 322.01, F.S.; conforming provisions to changes made
182 by the act; amending s. 322.03, F.S.; authorizing a
183 person to operate an autocycle without a motorcycle
184 endorsement; amending s. 322.032, F.S.; requiring the
185 department, in collaboration with the Agency for State
186 Technology, to establish and implement certain
187 protocols and standards related to digital proofs of
188 driver licenses and to procure an application
189 programming interface for a specified purpose;
190 conforming a provision to changes made by the act;
191 providing construction relating to a person's
192 presentation of an electronic device displaying a
193 digital proof of driver license to a law enforcement
194 officer; amending s. 322.051, F.S.; revising
195 eligibility for a "D" designation on an identification
196 card to include posttraumatic stress disorder or
197 traumatic brain injury; amending s. 322.08, F.S.;
198 requiring an application form for an original,
199 renewal, or replacement driver license or
200 identification card to include language authorizing a



314566

576-04061-17

201 voluntary contribution to Preserve Vision Florida,
202 rather than to Prevent Blindness Florida; amending s.
203 322.091, F.S.; requiring the department to make
204 available, upon request, a report to each school
205 district of certain information for each student whose
206 driving privileges have been suspended under this
207 section; amending s. 322.12, F.S.; requiring the tax
208 collector to retain specified fees if a subsequent
209 knowledge or skills test is administered by the tax
210 collector; exempting the operation of an autocycle
211 from certain examination requirements for licenses to
212 operate motorcycles; amending s. 322.135, F.S.;
213 requiring tax collectors to provide driver license
214 services to residents of all counties; amending s.
215 322.17, F.S.; providing for replacement of a stolen
216 identification card at no charge, subject to certain
217 requirements; amending s. 322.21, F.S.; deleting
218 obsolete provisions; deleting a fee for certain
219 specialty driver licenses or identification cards;
220 providing disposition of specified fees for
221 reinstatement of a driver license following a
222 suspension, revocation, or disqualification when the
223 reinstatement is processed by the department or the
224 tax collector; requiring an applicant who submits an
225 application for a renewal or replacement driver
226 license or identification card to the department using
227 a convenience service to be provided with an option
228 for expedited shipping, subject to certain
229 requirements; requiring a fee to be charged for the



314566

576-04061-17

230 expedited shipping option, subject to certain
231 requirements; providing for disposition of such fee;
232 amending s. 322.61, F.S.; adding violations for
233 texting or using a handheld mobile telephone while
234 driving a commercial motor vehicle as specified
235 offenses that, in certain circumstances, result in
236 disqualification from operating a commercial motor
237 vehicle for a specified period; amending s. 324.031,
238 F.S.; revising insurer requirements for a motor
239 vehicle liability policy held by the owner or operator
240 of a taxicab, limousine, jitney, or any other for-hire
241 passenger transportation vehicle; revising certain
242 excess insurance minimum limits for an operator or
243 owner of any other vehicle proving his or her
244 financial responsibility by furnishing a certain
245 certificate of self-insurance showing a deposit of
246 cash; amending s. 877.27, F.S.; prohibiting a person
247 from using a device prohibited by the Federal
248 Communications Commission which would cause
249 interference with the legal use of a global
250 positioning system to track vehicles; amending ss.
251 212.05, 316.303, 316.545, 316.613, and 655.960, F.S.;
252 conforming cross-references; providing applicability
253 of certain changes made by the act; providing
254 effective dates, one of which is contingent.
255
256 Be It Enacted by the Legislature of the State of Florida:
257
258 Section 1. Present subsections (2) through (97) of section



314566

576-04061-17

259 316.003, Florida Statutes, are redesignated as subsections (3)
260 through (98), respectively, a new subsection (2) is added to
261 that section, and present subsections (41) and (55) of that
262 section are amended, to read:
263 316.003 Definitions.—The following words and phrases, when
264 used in this chapter, shall have the meanings respectively
265 ascribed to them in this section, except where the context
266 otherwise requires:
267 (2) AUTOCYCLE.—A three-wheel motorcycle that has two wheels
268 in the front and one wheel in the back, is equipped with a roll
269 cage or roll hoops, safety belts for each occupant, antilock
270 brakes, a steering wheel, and seating that does not require the
271 operator to straddle or sit astride it and is manufactured by a
272 National Highway Traffic Safety Administration registered
273 manufacturer in accordance with the applicable federal
274 motorcycle safety standards under 49 C.F.R. part 571.
275 (42)(41) MOTORCYCLE.—Any motor vehicle that has having a
276 seat or saddle for the use of the rider which is and designed to
277 travel on not more than three wheels in contact with the ground,
278 including an autocycle. The term does not include a tractor, a
279 moped, or a vehicle in which the operator is enclosed by a cabin
280 unless the vehicle meets the requirements set forth by the
281 National Highway Traffic Safety Administration for a motorcycle
282 but excluding a tractor or a moped.
283 (56)(55) PRIVATE ROAD OR DRIVEWAY.—Except as otherwise
284 provided in paragraph (78)(b) (77)(b), any privately owned way
285 or place used for vehicular travel by the owner and those having
286 express or implied permission from the owner, but not by other
287 persons.



314566

576-04061-17

288 Section 2. Subsections (1) and (3) of section 316.2397,
289 Florida Statutes, are amended to read:

290 316.2397 Certain lights prohibited; exceptions.-

291 (1) ~~A No person may not shall~~ drive or move or cause to be
292 moved any vehicle or equipment upon any highway within this
293 state with ~~a any~~ lamp or device thereon showing or displaying a
294 red, ~~red and white~~, or blue light visible from directly in front
295 thereof except for certain vehicles ~~hereinafter~~ provided in this
296 section.

297 (3) Vehicles of the fire department and fire patrol,
298 including vehicles of volunteer firefighters as permitted under
299 s. 316.2398, may show or display red, or red and white, lights.
300 Vehicles of medical staff physicians or technicians of medical
301 facilities licensed by the state as authorized under s.
302 316.2398, ambulances as authorized under this chapter, and buses
303 and taxicabs as authorized under s. 316.2399 may show or display
304 red lights. Vehicles of the fire department, fire patrol, police
305 vehicles, and such ambulances and emergency vehicles of
306 municipal and county departments, public service corporations
307 operated by private corporations, the Fish and Wildlife
308 Conservation Commission, the Department of Environmental
309 Protection, the Department of Transportation, the Department of
310 Agriculture and Consumer Services, and the Department of
311 Corrections as are designated or authorized by their respective
312 department or the chief of police of an incorporated city or any
313 sheriff of any county may operate emergency lights and sirens in
314 an emergency. Wreckers, mosquito control fog and spray vehicles,
315 and emergency vehicles of governmental departments or public
316 service corporations may show or display amber lights when in



314566

576-04061-17

317 actual operation or when a hazard exists provided they are not
318 used going to and from the scene of operation or hazard without
319 specific authorization of a law enforcement officer or law
320 enforcement agency. Wreckers, flatbed, car carriers, or
321 rollbacks registered as wreckers pursuant to s. 320.08(5)(d) or
322 (e) must use amber rotating or flashing lights while performing
323 recoveries and loading on the roadside day or night, and may use
324 such lights while towing a vehicle on wheel lifts, slings, ~~or~~
325 under reach, flatbeds, car carriers, or rollbacks if the
326 operator of the wrecker deems such lights necessary. ~~A flatbed,~~
327 ~~car carrier, or rollback may not use amber rotating or flashing~~
328 ~~lights when hauling a vehicle on the bed unless it creates a~~
329 ~~hazard to other motorists because of protruding objects.~~
330 Further, escort vehicles may show or display amber lights when
331 in the actual process of escorting oversized equipment,
332 material, or buildings as authorized by law. Vehicles owned or
333 leased by private security agencies may show or display green
334 and amber lights, with either color being no greater than 50
335 percent of the lights displayed, while the security personnel
336 are engaged in security duties on private or public property.

337 Section 3. Section 316.2398, Florida Statutes, is amended
338 to read:

339 316.2398 Display or use of red, or red and white, warning
340 signals; motor vehicles of volunteer firefighters or medical
341 staff.-

342 (1) A privately owned vehicle belonging to an active
343 firefighter member of a regularly organized volunteer
344 firefighting company or association, while en route to the fire
345 station for the purpose of proceeding to the scene of a fire or



314566

576-04061-17

346 other emergency or while en route to the scene of a fire or
347 other emergency in the line of duty as an active firefighter
348 member of a regularly organized firefighting company or
349 association, may display or use red, or red and white, warning
350 signals. ~~or~~ A privately owned vehicle belonging to a medical
351 staff physician or technician of a medical facility licensed by
352 the state, while responding to an emergency in the line of duty,
353 may display or use red warning signals. Warning signals must be
354 visible from the front and from the rear of such vehicle,
355 subject to the following restrictions and conditions:

356 (a) Red, or red and white, No more than two red warning
357 signals may be displayed as determined by the responding agency
358 in order to maintain public safety and the safety of the
359 responding vehicle occupants.

360 (b) No inscription of any kind may appear across the face
361 of the lens of the red, or red and white, warning signal.

362 (c) In order for an active volunteer firefighter to display
363 such red, or red and white, warning signals on his or her
364 vehicle, the volunteer firefighter must first secure a written
365 permit from the chief executive officers of the firefighting
366 organization to use the red, or red and white, warning signals,
367 and this permit must be carried by the volunteer firefighter at
368 all times while the red, or red and white, warning signals are
369 displayed.

370 (2) ~~A It is unlawful for any~~ person who is not an active
371 firefighter member of a regularly organized volunteer
372 firefighting company or association or a physician or technician
373 of the medical staff of a medical facility licensed by the state
374 may not ~~to~~ display on any motor vehicle owned by him or her, at



314566

576-04061-17

375 any time, any red, or red and white, warning signals as
376 described in subsection (1).

377 (3) ~~It is unlawful for~~ An active volunteer firefighter may
378 not ~~to~~ operate any red, or red and white, warning signals as
379 authorized in subsection (1), except while en route to the fire
380 station for the purpose of proceeding to the scene of a fire or
381 other emergency, or while at or en route to the scene of a fire
382 or other emergency, in the line of duty.

383 (4) ~~It is unlawful for~~ A physician or technician of the
384 medical staff of a medical facility may not ~~to~~ operate any red
385 warning signals as authorized in subsection (1), except when
386 responding to an emergency in the line of duty.

387 (5) A violation of this section is a nonmoving violation,
388 punishable as provided in chapter 318. In addition, a any
389 volunteer firefighter who violates this section shall be
390 dismissed from membership in the firefighting organization by
391 the chief executive officers thereof.

392 Section 4. Subsection (1) and paragraphs (a), (c), (d), and
393 (f) of subsection (2) of section 316.302, Florida Statutes, are
394 amended to read:

395 316.302 Commercial motor vehicles; safety regulations;
396 transporters and shippers of hazardous materials; enforcement.—

397 (1) Except as otherwise provided in subsection (3):

398 (a) All owners and drivers of commercial motor vehicles
399 that are operated on the public highways of this state while
400 engaged in interstate commerce are subject to the rules and
401 regulations contained in 49 C.F.R. parts 382, 385, and 390-397.

402 (b) Except as otherwise provided in this section, all
403 owners or drivers of commercial motor vehicles that are engaged



314566

576-04061-17

in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 383, 385, and 390-397, ~~with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus,~~ as such rules and regulations existed on December 31, ~~2016~~ 2012.

(c) The emergency exceptions provided by 49 C.F.R. s. 392.82 also apply to communications by utility drivers and utility contractor drivers during a Level 1 activation of the State Emergency Operations Center, as provided in the Florida Comprehensive Emergency Management plan, or during a state of emergency declared by executive order or proclamation of the Governor.

(d) Except as provided in ~~s. 316.215(5), and except as provided in~~ s. 316.228 for rear overhang lighting and flagging requirements for intrastate operations, the requirements of this section supersede all other safety requirements of this chapter for commercial motor vehicles.

(e) The requirement for electronic logging devices and hours of service support documents will not go into effect for motor carriers engaged in intrastate commerce, not carrying hazardous materials in amounts that require placards, until December 31, 2018.

(2) (a) A person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 need not comply with 49 C.F.R. ss. 391.11(b) (1) and ~~395.3 395.3(a) and (b).~~

(c) Except as provided in 49 C.F.R. s. 395.1, a person who operates a commercial motor vehicle solely in intrastate



314566

576-04061-17

commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 may not drive after having been on duty more than 70 hours in any period of 7 consecutive days or more than 80 hours in any period of 8 consecutive days if the motor carrier operates every day of the week. Thirty-four consecutive hours off duty shall constitute the end of any such period of 7 or 8 consecutive days. This weekly limit does not apply to a person who operates a commercial motor vehicle solely within this state while transporting, during harvest periods, any unprocessed agricultural products or unprocessed food or fiber that is subject to seasonal harvesting from place of harvest to the first place of processing or storage or from place of harvest directly to market or while transporting livestock, livestock feed, or farm supplies directly related to growing or harvesting agricultural products. Upon request of the Department of Highway Safety and Motor Vehicles, motor carriers shall furnish time records or other written verification to that department so that the Department of Highway Safety and Motor Vehicles can determine compliance with this subsection. These time records must be furnished to the Department of Highway Safety and Motor Vehicles within 2 days after receipt of that department's request. Falsification of such information is subject to a civil penalty ~~not to exceed \$100. The provisions of~~ This paragraph does ~~de~~ not apply to operators of farm labor vehicles operated during a state of emergency declared by the Governor or operated pursuant to s. 570.07(21), and does ~~de~~ not apply to drivers of utility service vehicles as defined in 49 C.F.R. s. 395.2.

(d) A person who operates a commercial motor vehicle solely



314566

576-04061-17

in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 within a 150 air-mile radius of the location where the vehicle is based need not comply with 49 C.F.R. s. 395.87 if the requirements of 49 C.F.R. s. 395.1(e)(1)(ii), (e)(1)(iii)(A) and (C), 395.1(e)(1)(iii) and (e)(1)(v) are met. ~~If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.~~

(f) A person who operates a commercial motor vehicle having a ~~declared~~ gross vehicle weight, gross vehicle weight rating, and gross combined weight rating of less than 26,001 pounds solely in intrastate commerce and who is not transporting hazardous materials in amounts that require placarding pursuant to 49 C.F.R. part 172, ~~or who is transporting petroleum products as defined in s. 376.301,~~ is exempt from subsection (1). However, such person must comply with 49 C.F.R. parts 382, 392, and 3937 and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

Section 5. Paragraph (a) of subsection (6) of section 316.3025, Florida Statutes, is amended to read:

316.3025 Penalties.—

(6)(a) A driver who violates 49 C.F.R. s. 392.80, which prohibits texting while operating a commercial motor vehicle, or 49 C.F.R. s. 392.82, which prohibits using a handheld mobile telephone while operating a commercial motor vehicle, may be assessed a civil penalty ~~and commercial driver license disqualification~~ as follows:

1. First violation: \$500.
2. Second violation: \$1,000 ~~and a 60-day commercial driver~~



314566

576-04061-17

~~license disqualification pursuant to 49 C.F.R. part 383.~~

3. Third and subsequent violations: \$2,750 ~~and a 120-day commercial driver license disqualification pursuant to 49 C.F.R. part 383.~~

Section 6. Paragraph (a) of subsection (3) and subsections (4) and (5) of section 316.614, Florida Statutes, are amended to read:

316.614 Safety belt usage.—

(3) As used in this section:

(a) "Motor vehicle" means a motor vehicle as defined in s. 316.003 which is operated on the roadways, streets, and highways of this state. The term does not include:

1. A school bus.

2. A bus used for the transportation of persons for compensation.

3. A farm tractor or implement of husbandry.

4. A truck having a gross vehicle weight rating of more than 26,000 pounds.

5. A motorcycle, excluding an autocycle for purposes of subsections (4) and (5), moped, or bicycle.

(4) It is unlawful for any person:

(a) To operate a motor vehicle or an autocycle in this state unless each passenger and the operator of the vehicle under the age of 18 years are restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle or an autocycle in this state unless the person is restrained by a safety belt.

(5) It is unlawful for any person 18 years of age or older



314566

576-04061-17

520 to be a passenger in the front seat of a motor vehicle or an
521 autocycle unless such person is restrained by a safety belt when
522 the vehicle is in motion.

523 Section 7. Subsection (1) of section 316.85, Florida
524 Statutes, is amended to read:

525 316.85 Autonomous vehicles; operation.—

526 (1) A person who possesses a valid driver license may
527 operate an autonomous vehicle, or may engage autonomous
528 technology to operate an autonomous vehicle, in autonomous mode
529 on roads in this state if the vehicle is equipped with
530 autonomous technology, as defined in s. 316.003. A person who
531 does not possess a valid driver license may engage autonomous
532 technology to operate an autonomous vehicle in autonomous mode
533 only if the vehicle is equipped with autonomous technology, as
534 defined in s. 316.003, and if the vehicle has no capability or
535 means by which the person inside the vehicle is able to take
536 control of the vehicle's operation or to disengage the
537 autonomous technology, regardless of where the person is seated
538 within the vehicle.

539 Section 8. Effective upon the same date that SB 340 or
540 similar legislation takes effect, if such legislation is adopted
541 in the 2017 Regular Session or any extension thereof and becomes
542 a law, section 316.851, Florida Statutes, is created to read:

543 316.851 Autonomous vehicles; providing prearranged rides.—

544 (1) An autonomous vehicle used by a transportation network
545 company to provide a prearranged ride must be covered by
546 automobile insurance as required by s. 627.748, regardless of
547 whether a human operator is physically present within the
548 vehicle when the ride occurs. When an autonomous vehicle is



314566

576-04061-17

549 logged on to a digital network but is not engaged in a
550 prearranged ride, the autonomous vehicle must maintain insurance
551 coverage as defined in s. 627.748(7)(b).

552 (2) An autonomous vehicle used to provide a transportation
553 service shall carry in the vehicle proof of coverage satisfying
554 the requirements of this section at all times while operating in
555 autonomous mode.

556 Section 9. Section 318.1215, Florida Statutes, is amended
557 to read:

558 318.1215 Dori Slosberg Driver Education Safety Act.—
559 Notwithstanding the provisions of s. 318.121, a board of county
560 commissioners may require, by ordinance, that the clerk of the
561 court collect an additional \$5 with each criminal ~~civil~~ traffic
562 penalty, which shall be used to fund driver education programs
563 in public and nonpublic schools. The ordinance shall provide for
564 the board of county commissioners to administer the funds, which
565 shall be used for enhancement, and not replacement, of driver
566 education program funds. The funds shall be used for direct
567 educational expenses and shall not be used for administration.
568 Each driver education program receiving funds pursuant to this
569 section shall require that a minimum of 30 percent of a
570 student's time in the program be behind-the-wheel training. This
571 section may be cited as the "Dori Slosberg Driver Education
572 Safety Act."

573 Section 10. Paragraph (d) of subsection (3) of section
574 318.18, Florida Statutes, is amended to read:

575 318.18 Amount of penalties.—The penalties required for a
576 noncriminal disposition pursuant to s. 318.14 or a criminal
577 offense listed in s. 318.17 are as follows:



314566

576-04061-17

578 (3)

579 (d) ~~Notwithstanding paragraph (b),~~ a person cited for
580 exceeding the speed limit in a posted ~~work construction~~ zone,
581 which posting must include notification of the speed limit and
582 the doubling of fines, shall pay a fine double the amount listed
583 in paragraph (b). The fine shall be doubled for ~~work~~
584 ~~construction~~ zone violations only if ~~work construction~~ personnel
585 are present or operating equipment on the road or immediately
586 adjacent to the road ~~under construction~~.

587 Section 11. Subsections (24) and (26) of section 320.01,
588 Florida Statutes, are amended to read:

589 320.01 Definitions, general.—As used in the Florida
590 Statutes, except as otherwise provided, the term:

591 (24) "Apportionable vehicle" means any vehicle, except
592 recreational vehicles, vehicles displaying restricted plates,
593 city pickup and delivery vehicles, ~~buses used in transportation~~
594 ~~of chartered parties,~~ and government-owned vehicles, which is
595 used or intended for use in two or more member jurisdictions
596 that allocate or proportionally register vehicles and which is
597 used for the transportation of persons for hire or is designed,
598 used, or maintained primarily for the transportation of property
599 and:

600 (a) Is a power unit having a gross vehicle weight in excess
601 of 26,000 pounds;

602 (b) Is a power unit having three or more axles, regardless
603 of weight; or

604 (c) Is used in combination, when the weight of such
605 combination exceeds 26,000 pounds gross vehicle weight.
606



314566

576-04061-17

607 Vehicles, or combinations thereof, having a gross vehicle weight
608 of 26,000 pounds or less and two-axle vehicles may be
609 proportionally registered.

610 (26) "Motorcycle" means any motor vehicle having a seat or
611 saddle for the use of the rider and designed to travel on not
612 more than three wheels in contact with the ground, including an
613 autocycle. ~~The term does not include a tractor, a moped, or~~
614 ~~excluding~~ a vehicle in which the operator is enclosed by a cabin
615 unless the vehicle ~~it~~ meets the requirements set forth by the
616 National Highway Traffic Safety Administration for a motorcycle.
617 ~~The term "motorcycle" does not include a tractor or a moped.~~

618 Section 12. Paragraph (a) of subsection (15) of section
619 320.02, Florida Statutes, is amended to read:

620 320.02 Registration required; application for registration;
621 forms.—

622 (15) (a) The application form for motor vehicle registration
623 ~~must shall~~ include language permitting the voluntary
624 contribution of \$1 per applicant, to be quarterly distributed by
625 the department to Preserve Vision ~~Prevent Blindness~~ Florida, a
626 not-for-profit organization, to prevent blindness and preserve
627 the sight of the residents of this state. A statement providing
628 an explanation of the purpose of the funds shall be included
629 with the application form. Prior to the department distributing
630 the funds collected pursuant to this paragraph, Preserve Vision
631 ~~Prevent Blindness~~ Florida must submit a report to the department
632 that identifies how such funds were used during the preceding
633 year.

634
635 For the purpose of applying the service charge provided in s.



314566

576-04061-17

636 215.20, contributions received under this subsection are not
637 income of a revenue nature.

638 Section 13. Subsection (1) of section 320.03, Florida
639 Statutes, is amended to read:

640 320.03 Registration; duties of tax collectors;
641 International Registration Plan.—

642 (1)(a) The tax collectors in the several counties of the
643 state, as authorized agents of the department, shall issue
644 registration certificates, registration license plates,
645 validation stickers, and mobile home stickers to applicants, and
646 shall provide to applicants for each the option to register
647 emergency contact information and the option to be contacted
648 with information about state and federal benefits available as a
649 result of military service, subject to the requirements of law,
650 in accordance with rules of the department. Each tax collector
651 shall provide the same motor vehicle registration services in
652 office to residents of other counties that it provides for
653 residents of its home county.

654 (b) Any person, firm, or corporation representing itself,
655 through advertising or naming of the business, to be an
656 authorized agent of the department shall be deemed guilty of an
657 unfair and deceptive trade practice as defined in part II of
658 chapter 501. No such person, firm, or corporation shall use
659 either the state or county name as a part of their business name
660 when such use can reasonably be interpreted as an official state
661 or county office.

662 Section 14. Effective July 1, 2018, subsection (10) of
663 section 320.03, Florida Statutes, is amended to read:

664 320.03 Registration; duties of tax collectors;



314566

576-04061-17

665 International Registration Plan.—

666 (10)(a) Jurisdiction over the electronic filing system for
667 use by authorized electronic filing system agents to
668 electronically title or register motor vehicles, vessels, mobile
669 homes, or off-highway vehicles; process title transactions,
670 derelict motor vehicle certificates, and certificates of
671 destruction for derelict and salvage motor vehicles pursuant to
672 s. 319.30(2), (3), (7), and (8); issue or transfer registration
673 license plates or decals; electronically transfer fees due for
674 the title and registration process; and perform inquiries for
675 title, registration, and lienholder verification and
676 certification of service providers is expressly preempted to the
677 state, and the department shall have regulatory authority over
678 the system. The electronic filing system shall be available for
679 use statewide and applied uniformly throughout the state. An
680 entity that, in the normal course of its business, sells
681 products that must be titled or registered; ~~provides title and~~
682 ~~registration services on behalf of its consumers; or processes~~
683 ~~title transactions, derelict motor vehicle certificates, or~~
684 ~~certificates of destruction for derelict or salvage motor~~
685 ~~vehicles pursuant to s. 319.30(2), (3), (7), and (8);~~ and meets
686 all established requirements may be an authorized electronic
687 filing system agent and shall not be precluded from
688 participating in the electronic filing system in any county.
689 Upon request from a qualified entity, the tax collector shall
690 appoint the entity as an authorized electronic filing system
691 agent for that county. ~~The department shall adopt rules in~~
692 ~~accordance with chapter 120 to replace the December 10, 2009,~~
693 ~~program standards and to administer the provisions of this~~



314566

576-04061-17

694 ~~section, including, but not limited to, establishing~~
695 ~~participation requirements, certification of service providers,~~
696 ~~electronic filing system requirements, and enforcement authority~~
697 ~~for noncompliance. The December 10, 2009, program standards,~~
698 ~~excluding any standards which conflict with this subsection,~~
699 ~~shall remain in effect until the rules are adopted. An~~
700 authorized electronic filing system agent may charge a fee to
701 the customer for use of the electronic filing system.

702 (b) The department shall adopt rules to administer this
703 subsection, including, but not limited to, rules establishing
704 participation requirements, certification of service providers,
705 electronic filing system requirements, disclosures, and
706 enforcement authority for noncompliance.

707 Section 15. Paragraph (b) of subsection (1) of section
708 320.06, Florida Statutes, is amended to read:

709 320.06 Registration certificates, license plates, and
710 validation stickers generally.—

711 (1)

712 (b)1. Registration license plates bearing a graphic symbol
713 and the alphanumeric system of identification shall be issued
714 for a 10-year period. At the end of the 10-year period, upon
715 renewal, the plate shall be replaced. The department shall
716 extend the scheduled license plate replacement date from a 6-
717 year period to a 10-year period. The fee for such replacement is
718 \$28, \$2.80 of which shall be paid each year before the plate is
719 replaced, to be credited toward the next \$28 replacement fee.
720 The fees shall be deposited into the Highway Safety Operating
721 Trust Fund. A credit or refund may not be given for any prior
722 years' payments of the prorated replacement fee if the plate is



314566

576-04061-17

723 replaced or surrendered before the end of the 10-year period,
724 except that a credit may be given if a registrant is required by
725 the department to replace a license plate under s.
726 320.08056(8)(a). With each license plate, a validation sticker
727 shall be issued showing the owner's birth month, license plate
728 number, and the year of expiration or the appropriate renewal
729 period if the owner is not a natural person. The validation
730 sticker shall be placed on the upper right corner of the license
731 plate. The license plate and validation sticker shall be issued
732 based on the applicant's appropriate renewal period. The
733 registration period is 12 months, the extended registration
734 period is 24 months, and all expirations occur based on the
735 applicant's appropriate registration period.

736 2. A vehicle that has an apportioned registration shall be
737 issued an annual license plate and a cab card denoting that
738 denote the declared gross vehicle weight for each apportioned
739 jurisdiction in which the vehicle is authorized to operate. This
740 subparagraph expires October 1, 2018.

741 3. Beginning October 1, 2018, a vehicle registered in
742 accordance with the International Registration Plan which has an
743 apportioned registration shall be issued a license plate for a
744 5-year period, an annual cab card denoting the declared gross
745 vehicle weight, and an annual validation sticker showing the
746 month and year of expiration. The validation sticker shall be
747 placed in the center of the license plate. The license plate and
748 validation sticker shall be issued based on the applicant's
749 appropriate renewal period. The registration period is 12
750 months. The fee for an original and a renewed validation sticker
751 is \$28. This fee shall be deposited into the Highway Safety



314566

576-04061-17

752 Operating Trust Fund. If the license plate is damaged or worn,
753 it may be replaced at no charge by applying to the department
754 and surrendering the current license plate.

755 ~~4.2-~~ In order to retain the efficient administration of the
756 taxes and fees imposed by this chapter, the 80-cent fee increase
757 in the replacement fee imposed by chapter 2009-71, Laws of
758 Florida, is negated as provided in s. 320.0804.

759 Section 16. Section 320.0605, Florida Statutes, is amended
760 to read:

761 320.0605 Certificate of registration; possession required;
762 exception.-

763 (1) (a) The registration certificate or an official copy
764 thereof, a true copy or electronic copy of rental or lease
765 documentation issued for a motor vehicle or issued for a
766 replacement vehicle in the same registration period, a temporary
767 receipt printed upon self-initiated electronic renewal of a
768 registration via the Internet, or a cab card issued for a
769 vehicle registered under the International Registration Plan
770 shall, at all times while the vehicle is being used or operated
771 on the roads of this state, be in the possession of the operator
772 thereof or be carried in the vehicle for which issued and shall
773 be exhibited upon demand of any authorized law enforcement
774 officer or any agent of the department, except for a vehicle
775 registered under s. 320.0657. ~~The provisions of~~ This section
776 does ~~de~~ not apply during the first 30 days after purchase of a
777 replacement vehicle. A violation of this section is a
778 noncriminal traffic infraction, punishable as a nonmoving
779 violation as provided in chapter 318.

780 (b)1. The act of presenting to a law enforcement officer or



314566

576-04061-17

781 agent of the department an electronic device displaying an
782 electronic copy of rental or lease documentation does not
783 constitute consent for the officer or agent to access any
784 information on the device other than the displayed rental or
785 lease documentation.

786 2. The person who presents the device to the officer or
787 agent assumes the liability for any resulting damage to the
788 device.

789 (2) Rental or lease documentation that is sufficient to
790 satisfy the requirement in subsection (1) includes the
791 following:

- 792 (a) Date ~~of rental~~ and time of ~~exit from rental facility~~;
- 793 (b) Rental station identification;
- 794 (c) Rental agreement number;
- 795 (d) Rental vehicle identification number;
- 796 (e) Rental vehicle license plate number and state of
797 registration;
- 798 (f) Vehicle's make, model, and color;
- 799 (g) Vehicle's mileage; and
- 800 (h) Authorized renter's name.

801 Section 17. Subsection (5) of section 320.0607, Florida
802 Statutes, is amended to read:

803 320.0607 Replacement license plates, validation decal, or
804 mobile home sticker.-

805 (5) Upon the issuance of an original license plate, the
806 applicant shall pay a fee of \$28 to be deposited in the Highway
807 Safety Operating Trust Fund. Beginning October 1, 2018, this
808 subsection does not apply to a vehicle registered under the
809 International Registration Plan.



314566

576-04061-17

810 Section 18. Section 320.08, Florida Statutes, is amended to
811 read:

812 320.08 License taxes.—Except as otherwise provided herein,
813 there are hereby levied and imposed annual license taxes for the
814 operation of motor vehicles, mopeds, motorized bicycles as
815 defined in s. 316.003(4) ~~s. 316.003(2)~~, tri-vehicles as defined
816 in s. 316.003, and mobile homes as defined in s. 320.01, which
817 shall be paid to and collected by the department or its agent
818 upon the registration or renewal of registration of the
819 following:

820 (1) MOTORCYCLES AND MOPEDS.—

821 (a) Any motorcycle: \$10 flat.

822 (b) Any moped: \$5 flat.

823 (c) Upon registration of a motorcycle, motor-driven cycle,
824 or moped, in addition to the license taxes specified in this
825 subsection, a nonrefundable motorcycle safety education fee in
826 the amount of \$2.50 shall be paid. The proceeds of such
827 additional fee shall be deposited in the Highway Safety
828 Operating Trust Fund to fund a motorcycle driver improvement
829 program implemented pursuant to s. 322.025, the Florida
830 Motorcycle Safety Education Program established in s. 322.0255,
831 or the general operations of the department.

832 (d) An ancient or antique motorcycle: \$7.50 flat, of which
833 \$2.50 shall be deposited into the General Revenue Fund.

834 (2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—

835 (a) An ancient or antique automobile, as defined in s.
836 320.086, or a street rod, as defined in s. 320.0863: \$7.50 flat.

837 (b) Net weight of less than 2,500 pounds: \$14.50 flat.

838 (c) Net weight of 2,500 pounds or more, but less than 3,500



314566

576-04061-17

839 pounds: \$22.50 flat.

840 (d) Net weight of 3,500 pounds or more: \$32.50 flat.

841 (3) TRUCKS.—

842 (a) Net weight of less than 2,000 pounds: \$14.50 flat.

843 (b) Net weight of 2,000 pounds or more, but not more than
844 3,000 pounds: \$22.50 flat.

845 (c) Net weight more than 3,000 pounds, but not more than
846 5,000 pounds: \$32.50 flat.

847 (d) A truck defined as a "goat," or other vehicle if used
848 in the field by a farmer or in the woods for the purpose of
849 harvesting a crop, including naval stores, during such
850 harvesting operations, and which is not principally operated
851 upon the roads of the state: \$7.50 flat. The term "goat" means a
852 motor vehicle designed, constructed, and used principally for
853 the transportation of citrus fruit within citrus groves or for
854 the transportation of crops on farms, and which can also be used
855 for hauling associated equipment or supplies, including required
856 sanitary equipment, and the towing of farm trailers.

857 (e) An ancient or antique truck, as defined in s. 320.086:
858 \$7.50 flat.

859 (4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS
860 VEHICLE WEIGHT.—

861 (a) Gross vehicle weight of 5,001 pounds or more, but less
862 than 6,000 pounds: \$60.75 flat, of which \$15.75 shall be
863 deposited into the General Revenue Fund.

864 (b) Gross vehicle weight of 6,000 pounds or more, but less
865 than 8,000 pounds: \$87.75 flat, of which \$22.75 shall be
866 deposited into the General Revenue Fund.

867 (c) Gross vehicle weight of 8,000 pounds or more, but less



314566

576-04061-17

868 than 10,000 pounds: \$103 flat, of which \$27 shall be deposited
869 into the General Revenue Fund.

870 (d) Gross vehicle weight of 10,000 pounds or more, but less
871 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited
872 into the General Revenue Fund.

873 (e) Gross vehicle weight of 15,000 pounds or more, but less
874 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
875 into the General Revenue Fund.

876 (f) Gross vehicle weight of 20,000 pounds or more, but less
877 than 26,001 pounds: \$251 flat, of which \$65 shall be deposited
878 into the General Revenue Fund.

879 (g) Gross vehicle weight of 26,001 pounds or more, but less
880 than 35,000: \$324 flat, of which \$84 shall be deposited into the
881 General Revenue Fund.

882 (h) Gross vehicle weight of 35,000 pounds or more, but less
883 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
884 into the General Revenue Fund.

885 (i) Gross vehicle weight of 44,000 pounds or more, but less
886 than 55,000 pounds: \$773 flat, of which \$201 shall be deposited
887 into the General Revenue Fund.

888 (j) Gross vehicle weight of 55,000 pounds or more, but less
889 than 62,000 pounds: \$916 flat, of which \$238 shall be deposited
890 into the General Revenue Fund.

891 (k) Gross vehicle weight of 62,000 pounds or more, but less
892 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
893 deposited into the General Revenue Fund.

894 (l) Gross vehicle weight of 72,000 pounds or more: \$1,322
895 flat, of which \$343 shall be deposited into the General Revenue
896 Fund.



314566

576-04061-17

897 (m) Notwithstanding the declared gross vehicle weight, a
898 truck tractor used within this state ~~a 150-mile radius of its~~
899 ~~home address~~ is eligible for a license plate for a fee of \$324
900 flat if:

901 1. The truck tractor is used exclusively for hauling
902 forestry products; or

903 2. The truck tractor is used primarily for the hauling of
904 forestry products, and is also used for the hauling of
905 associated forestry harvesting equipment used by the owner of
906 the truck tractor.

907
908 Of the fee imposed by this paragraph, \$84 shall be deposited
909 into the General Revenue Fund.

910 (n) A truck tractor or heavy truck, not operated as a for-
911 hire vehicle, which is engaged exclusively in transporting raw,
912 unprocessed, and nonmanufactured agricultural or horticultural
913 products within this state ~~a 150-mile radius of its home~~
914 ~~address~~, is eligible for a restricted license plate for a fee
915 of:

916 1. If such vehicle's declared gross vehicle weight is less
917 than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be
918 deposited into the General Revenue Fund.

919 2. If such vehicle's declared gross vehicle weight is
920 44,000 pounds or more and such vehicle only transports from the
921 point of production to the point of primary manufacture; to the
922 point of assembling the same; or to a shipping point of a rail,
923 water, or motor transportation company, \$324 flat, of which \$84
924 shall be deposited into the General Revenue Fund.

925



314566

576-04061-17

926 Such not-for-hire truck tractors and heavy trucks used
927 exclusively in transporting raw, unprocessed, and
928 nonmanufactured agricultural or horticultural products may be
929 incidentally used to haul farm implements and fertilizers
930 delivered direct to the growers. The department may require any
931 documentation deemed necessary to determine eligibility prior to
932 issuance of this license plate. For the purpose of this
933 paragraph, "not-for-hire" means the owner of the motor vehicle
934 must also be the owner of the raw, unprocessed, and
935 nonmanufactured agricultural or horticultural product, or the
936 user of the farm implements and fertilizer being delivered.

937 (5) SEMITRAILERS; FEES ACCORDING TO GROSS VEHICLE WEIGHT;
938 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

939 (a)1. A semitrailer drawn by a GVW truck tractor by means
940 of a fifth-wheel arrangement: \$13.50 flat per registration year
941 or any part thereof, of which \$3.50 shall be deposited into the
942 General Revenue Fund.

943 2. A semitrailer drawn by a GVW truck tractor by means of a
944 fifth-wheel arrangement: \$68 flat per permanent registration, of
945 which \$18 shall be deposited into the General Revenue Fund.

946 (b) A motor vehicle equipped with machinery and designed
947 for the exclusive purpose of well drilling, excavation,
948 construction, spraying, or similar activity, and which is not
949 designed or used to transport loads other than the machinery
950 described above over public roads: \$44 flat, of which \$11.50
951 shall be deposited into the General Revenue Fund.

952 (c) A school bus used exclusively to transport pupils to
953 and from school or school or church activities or functions
954 within their own county: \$41 flat, of which \$11 shall be



314566

576-04061-17

955 deposited into the General Revenue Fund.

956 (d) A wrecker, as defined in s. 320.01, which is used to
957 tow a vessel as defined in s. 327.02, a disabled, abandoned,
958 stolen-recovered, or impounded motor vehicle as defined in s.
959 320.01, or a replacement motor vehicle as defined in s. 320.01:
960 \$41 flat, of which \$11 shall be deposited into the General
961 Revenue Fund.

962 (e) A wrecker that is used to tow any nondisabled motor
963 vehicle, a vessel, or any other cargo unless used as defined in
964 paragraph (d), as follows:

965 1. Gross vehicle weight of 10,000 pounds or more, but less
966 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited
967 into the General Revenue Fund.

968 2. Gross vehicle weight of 15,000 pounds or more, but less
969 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
970 into the General Revenue Fund.

971 3. Gross vehicle weight of 20,000 pounds or more, but less
972 than 26,000 pounds: \$251 flat, of which \$65 shall be deposited
973 into the General Revenue Fund.

974 4. Gross vehicle weight of 26,000 pounds or more, but less
975 than 35,000 pounds: \$324 flat, of which \$84 shall be deposited
976 into the General Revenue Fund.

977 5. Gross vehicle weight of 35,000 pounds or more, but less
978 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
979 into the General Revenue Fund.

980 6. Gross vehicle weight of 44,000 pounds or more, but less
981 than 55,000 pounds: \$772 flat, of which \$200 shall be deposited
982 into the General Revenue Fund.

983 7. Gross vehicle weight of 55,000 pounds or more, but less



314566

576-04061-17

984 than 62,000 pounds: \$915 flat, of which \$237 shall be deposited
985 into the General Revenue Fund.

986 8. Gross vehicle weight of 62,000 pounds or more, but less
987 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
988 deposited into the General Revenue Fund.

989 9. Gross vehicle weight of 72,000 pounds or more: \$1,322
990 flat, of which \$343 shall be deposited into the General Revenue
991 Fund.

992 (f) A hearse or ambulance: \$40.50 flat, of which \$10.50
993 shall be deposited into the General Revenue Fund.

994 (6) MOTOR VEHICLES FOR HIRE.—

995 (a) Under nine passengers: \$17 flat, of which \$4.50 shall
996 be deposited into the General Revenue Fund; plus \$1.50 per cwt,
997 of which 50 cents shall be deposited into the General Revenue
998 Fund.

999 (b) Nine passengers and over: \$17 flat, of which \$4.50
1000 shall be deposited into the General Revenue Fund; plus \$2 per
1001 cwt, of which 50 cents shall be deposited into the General
1002 Revenue Fund.

1003 (7) TRAILERS FOR PRIVATE USE.—

1004 (a) Any trailer weighing 500 pounds or less: \$6.75 flat per
1005 year or any part thereof, of which \$1.75 shall be deposited into
1006 the General Revenue Fund.

1007 (b) Net weight over 500 pounds: \$3.50 flat, of which \$1
1008 shall be deposited into the General Revenue Fund; plus \$1 per
1009 cwt, of which 25 cents shall be deposited into the General
1010 Revenue Fund.

1011 (8) TRAILERS FOR HIRE.—

1012 (a) Net weight under 2,000 pounds: \$3.50 flat, of which \$1



314566

576-04061-17

1013 shall be deposited into the General Revenue Fund; plus \$1.50 per
1014 cwt, of which 50 cents shall be deposited into the General
1015 Revenue Fund.

1016 (b) Net weight 2,000 pounds or more: \$13.50 flat, of which
1017 \$3.50 shall be deposited into the General Revenue Fund; plus
1018 \$1.50 per cwt, of which 50 cents shall be deposited into the
1019 General Revenue Fund.

1020 (9) RECREATIONAL VEHICLE-TYPE UNITS.—

1021 (a) A travel trailer or fifth-wheel trailer, as defined by
1022 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27
1023 flat, of which \$7 shall be deposited into the General Revenue
1024 Fund.

1025 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:
1026 \$13.50 flat, of which \$3.50 shall be deposited into the General
1027 Revenue Fund.

1028 (c) A motor home, as defined by s. 320.01(1)(b)4.:

1029 1. Net weight of less than 4,500 pounds: \$27 flat, of which
1030 \$7 shall be deposited into the General Revenue Fund.

1031 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
1032 which \$12.25 shall be deposited into the General Revenue Fund.

1033 (d) A truck camper as defined by s. 320.01(1)(b)3.:

1034 1. Net weight of less than 4,500 pounds: \$27 flat, of which
1035 \$7 shall be deposited into the General Revenue Fund.

1036 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
1037 which \$12.25 shall be deposited into the General Revenue Fund.

1038 (e) A private motor coach as defined by s. 320.01(1)(b)5.:

1039 1. Net weight of less than 4,500 pounds: \$27 flat, of which
1040 \$7 shall be deposited into the General Revenue Fund.

1041 2. Net weight of 4,500 pounds or more: \$47.25 flat, of



314566

576-04061-17

which \$12.25 shall be deposited into the General Revenue Fund.

(10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;
35 FEET TO 40 FEET.—

(a) Park trailers.—Any park trailer, as defined in s.
320.01(1)(b)7.: \$25 flat.

(b) A travel trailer or fifth-wheel trailer, as defined in
s. 320.01(1)(b), that exceeds 35 feet: \$25 flat.

(11) MOBILE HOMES.—

(a) A mobile home not exceeding 35 feet in length: \$20
flat.

(b) A mobile home over 35 feet in length, but not exceeding
40 feet: \$25 flat.

(c) A mobile home over 40 feet in length, but not exceeding
45 feet: \$30 flat.

(d) A mobile home over 45 feet in length, but not exceeding
50 feet: \$35 flat.

(e) A mobile home over 50 feet in length, but not exceeding
55 feet: \$40 flat.

(f) A mobile home over 55 feet in length, but not exceeding
60 feet: \$45 flat.

(g) A mobile home over 60 feet in length, but not exceeding
65 feet: \$50 flat.

(h) A mobile home over 65 feet in length: \$80 flat.

(12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
motor vehicle dealer, independent motor vehicle dealer, marine
boat trailer dealer, or mobile home dealer and manufacturer
license plate: \$17 flat, of which \$4.50 shall be deposited into
the General Revenue Fund.

(13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or



314566

576-04061-17

official license plate: \$4 flat, of which \$1 shall be deposited
into the General Revenue Fund.

(14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor
vehicle for hire operated wholly within a city or within 25
miles thereof: \$17 flat, of which \$4.50 shall be deposited into
the General Revenue Fund; plus \$2 per cwt, of which 50 cents
shall be deposited into the General Revenue Fund.

(15) TRANSPORTER.—Any transporter license plate issued to a
transporter pursuant to s. 320.133: \$101.25 flat, of which
\$26.25 shall be deposited into the General Revenue Fund.

Section 19. Paragraphs (ee), (eee), (qqq), and (rrr) of
subsection (4) and paragraph (a) of subsection (10) of section
320.08056, Florida Statutes, are amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be
collected for the appropriate specialty license plates:

~~(ee) American Red Cross license plate, \$25.~~

~~(eee) Donate Organs Pass It On license plate, \$25.~~

~~(qqq) St. Johns River license plate, \$25.~~

~~(rrr) Hispanic Achievers license plate, \$25.~~

(10)(a) A specialty license plate annual use fee collected
and distributed under this chapter, or any interest earned from
those fees, may not be used for commercial or for-profit
activities nor for general or administrative expenses, except as
authorized by s. 320.08058 or to pay the cost of the audit or
report required by s. 320.08062(1). The fees and any interest
earned from the fees may be expended only for use in this state
unless the annual use fee is derived from the sale of United
States Armed Forces and veterans-related specialty license



314566

576-04061-17

1100 plates pursuant to paragraphs (4)(d), (bb), (kk), (iii), and
1101 (uuu) ~~(ll)~~, ~~(kkk)~~, and ~~(yyy)~~ and s. 320.0891.

1102 Section 20. Subsections (31), (57), (69), and (70) of
1103 section 320.08058, Florida Statutes, are repealed.

1104 Section 21. Paragraph (b) of subsection (4) of section
1105 320.08068, Florida Statutes, is amended to read:

1106 320.08068 Motorcycle specialty license plates.—

1107 (4) A license plate annual use fee of \$20 shall be
1108 collected for each motorcycle specialty license plate. Annual
1109 use fees shall be distributed to The Able Trust as custodial
1110 agent. The Able Trust may retain a maximum of 10 percent of the
1111 proceeds from the sale of the license plate for administrative
1112 costs. The Able Trust shall distribute the remaining funds as
1113 follows:

1114 (b) Twenty percent to Preserve Vision ~~Prevent Blindness~~
1115 Florida.

1116 Section 22. Subsection (7) is added to section 320.086,
1117 Florida Statutes, to read:

1118 320.086 Ancient or antique motor vehicles; horseless
1119 carriage, antique, or historical license plates; former military
1120 vehicles.—

1121 (7) For purposes of this section, a trailer is considered a
1122 motor vehicle.

1123 Section 23. Section 320.0875, Florida Statutes, is created
1124 to read:

1125 320.0875 Purple Heart motorcycle special license plate.—

1126 (1) Upon application to the department and payment of the
1127 license tax for the motorcycle as provided in s. 320.08, a
1128 resident of this state who owns or leases a motorcycle that is



314566

576-04061-17

1129 not used for hire or commercial use shall be issued a Purple
1130 Heart motorcycle special license plate if he or she provides
1131 documentation acceptable to the department that he or she is a
1132 recipient of the Purple Heart medal.

1133 (2) The Purple Heart motorcycle special license plate shall
1134 be stamped with the words "Combat-wounded Veteran" followed by
1135 the serial number of the license plate. The Purple Heart
1136 motorcycle special license plate may have the term "Purple
1137 Heart" stamped on the plate and the likeness of the Purple Heart
1138 medal appearing on the plate.

1139 Section 24. Paragraph (a) of subsection (1) of section
1140 320.089, Florida Statutes, is amended to read:

1141 ~~320.089 Veterans of the United States Armed Forces; members~~
1142 ~~of National Guard; survivors of Pearl Harbor; Purple Heart medal~~
1143 ~~recipients; active or retired United States Armed Forces~~
1144 ~~reservists; Combat Infantry Badge, Combat Medical Badge, or~~
1145 ~~Combat Action Badge recipients; Combat Action Ribbon recipients;~~
1146 ~~Air Force Combat Action Medal recipients; Distinguished Flying~~
1147 ~~Cross recipients; former prisoners of war; Korean War Veterans;~~
1148 ~~Vietnam War Veterans; Operation Desert Shield Veterans;~~
1149 ~~Operation Desert Storm Veterans; Operation Enduring Freedom~~
1150 ~~Veterans; Operation Iraqi Freedom Veterans; Women Veterans;~~
1151 ~~World War II Veterans; and Navy Submariners; Special license~~
1152 plates for military servicemembers, veterans, and Pearl Harbor
1153 survivors; fee.—

1154 (1)(a) Upon application to the department and payment of
1155 the license tax for the vehicle as provided in s. 320.08, a
1156 resident of this state who owns or leases ~~Each owner or lessee~~
1157 ~~of an automobile or truck for private use or recreational~~



314566

576-04061-17

1158 vehicle as specified in s. 320.08(9)(c) or (d), which is not
1159 used for hire or commercial use, shall be issued a license plate
1160 pursuant to the following if the applicant provides the
1161 department with proof he or she meets the qualifications listed
1162 in this section for the applicable license plate:

1163 1. A person released or discharged from any branch who is a
1164 resident of the state and a veteran of the United States Armed
1165 Forces shall be issued a license plate stamped with the words
1166 "Veteran" or "Woman Veteran" followed by the serial number of
1167 the license plate. ~~a Woman Veteran,~~

1168 2. A World War II Veteran shall be issued a license plate
1169 stamped with the words "WWII Veteran" followed by the serial
1170 number of the license plate.

1171 3. A Navy Submariner shall be issued a license plate
1172 stamped with the words "Navy Submariner" followed by the serial
1173 number of the license plate.

1174 4. An active or retired member of the Florida National
1175 Guard shall be issued a license plate stamped with the words
1176 "National Guard" followed by the serial number of the license
1177 plate.

1178 5. A member of the Pearl Harbor Survivors Association or
1179 other person on active military duty in Pearl Harbor on December
1180 7, 1941, shall be issued a license plate stamped with the words
1181 "Pearl Harbor Survivor" followed by the serial number of the
1182 license plate. ~~a survivor of the attack on Pearl Harbor,~~

1183 6. A recipient of the Purple Heart medal shall be issued a
1184 license plate stamped with the words "Combat-wounded Veteran"
1185 followed by the serial number of the license plate. The Purple
1186 Heart plate may have the words "Purple Heart" stamped on the



314566

576-04061-17

1187 plate and the likeness of the Purple Heart medal appearing on
1188 the plate.

1189 7. An active or retired member of any branch of the United
1190 States Armed Forces Reserve shall be issued a license plate
1191 stamped with the words "U.S. Reserve" followed by the serial
1192 number of the license plate.

1193 8. A member of the Combat Infantrymen's Association, Inc.,
1194 or a recipient of the Combat Infantry Badge, Combat Medical
1195 Badge, Combat Action Badge, Combat Action Ribbon, or Air Force
1196 Combat Action Medal shall be issued a license plate stamped with
1197 the words "Combat Infantry Badge," "Combat Medical Badge,"
1198 "Combat Action Badge," "Combat Action Ribbon," or "Air Force
1199 Combat Action Medal," as appropriate, and a likeness of the
1200 related campaign badge, ribbon, or medal, followed by the serial
1201 number of the license plate.

1202 9. A recipient of the, ~~or~~ Distinguished Flying Cross shall
1203 be issued a license plate stamped with the words "Distinguished
1204 Flying Cross" and a likeness of the Distinguished Flying Cross
1205 followed by the serial number of the license plate.

1206 10. A recipient of the Bronze Star shall be issued a
1207 license plate stamped with the words "Bronze Star" and a
1208 likeness of the Bronze Star followed by the serial number of the
1209 license plate. ~~upon application to the department, accompanied~~
1210 ~~by proof of release or discharge from any branch of the United~~
1211 ~~States Armed Forces, proof of active membership or retired~~
1212 ~~status in the Florida National Guard, proof of membership in the~~
1213 ~~Pearl Harbor Survivors Association or proof of active military~~
1214 ~~duty in Pearl Harbor on December 7, 1941, proof of being a~~
1215 ~~Purple Heart medal recipient, proof of active or retired~~



314566

576-04061-17

1216 ~~membership in any branch of the United States Armed Forces~~
1217 ~~Reserve, or proof of membership in the Combat Infantrymen's~~
1218 ~~Association, Inc., proof of being a recipient of the Combat~~
1219 ~~Infantry Badge, Combat Medical Badge, Combat Action Badge,~~
1220 ~~Combat Action Ribbon, Air Force Combat Action Medal, or~~
1221 ~~Distinguished Flying Cross, and upon payment of the license tax~~
1222 ~~for the vehicle as provided in s. 320.08, shall be issued a~~
1223 ~~license plate as provided by s. 320.06 which, in lieu of the~~
1224 ~~serial numbers prescribed by s. 320.06, is stamped with the~~
1225 ~~words "Veteran," "Woman Veteran," "WWII Veteran," "Navy~~
1226 ~~Submariner," "National Guard," "Pearl Harbor Survivor," "Combat~~
1227 ~~wounded veteran," "U.S. Reserve," "Combat Infantry Badge,"~~
1228 ~~"Combat Medical Badge," "Combat Action Badge," "Combat Action~~
1229 ~~Ribbon," "Air Force Combat Action Medal," or "Distinguished~~
1230 ~~Flying Cross," as appropriate, and a likeness of the related~~
1231 ~~campaign medal or badge, followed by the serial number of the~~
1232 ~~license plate. Additionally, the Purple Heart plate may have the~~
1233 ~~words "Purple Heart" stamped on the plate and the likeness of~~
1234 ~~the Purple Heart medal appearing on the plate.~~

1235 Section 25. Section 320.133, Florida Statutes, is amended
1236 to read:

1237 320.133 Transporter license plates.-

1238 (1) As used in this section, the term "transporter license
1239 plate eligible business" means a business that is engaged in the
1240 limited operation of an unregistered motor vehicle, or a
1241 repossessor that contracts with lending institutions to
1242 repossess or recover motor vehicles or mobile homes.

1243 (2) A person is not eligible to purchase or renew a
1244 transporter license plate unless he or she provides proof



314566

576-04061-17

1245 satisfactory to the department that his or her business is a
1246 transporter license plate eligible business.

1247 (3) The application for qualification as a transporter
1248 license plate eligible business must be in such form as is
1249 prescribed by the department and must contain the legal name of
1250 the person or persons applying for the license plate, the name
1251 of the business, and the principal or principals of the
1252 business. The application must describe the exact physical
1253 location of the place of business within the state. This
1254 location must be available at all reasonable hours for
1255 inspection of the transporter license plate records by the
1256 department or any law enforcement agency. The application must
1257 contain proof of a garage liability insurance policy, or a
1258 business automobile policy, in the amount of at least \$100,000.
1259 The certificate of insurance must indicate the number of
1260 transporter license plates reported to the insurance company.
1261 Such coverage shall be maintained for the entire registration
1262 period. Upon seeking initial qualification, the applicant must
1263 provide documentation proving that the business is registered
1264 with the Division of Corporations of the Department of State to
1265 conduct business in this state. The business must indicate how
1266 it meets the qualification as a transporter license plate
1267 eligible business by describing in detail the business processes
1268 that require the use of a transporter license plate.

1269 (4) (a) (1) The department may is authorized to issue a
1270 transporter license plate to an any applicant who is not a
1271 licensed dealer and who is qualified as a transporter license
1272 plate eligible business, incidental to the conduct of his or her
1273 business, engages in the transporting of motor vehicles which



314566

576-04061-17

1274 ~~are not currently registered to any owner and which do not have~~
1275 ~~license plates,~~ upon payment of the license tax imposed by s.
1276 320.08(15) for each transporter ~~such~~ license plate and upon
1277 proof of ~~liability~~ insurance as described in subsection (3)
1278 ~~coverage in the amount of \$100,000 or more. The proof of~~
1279 insurance must indicate the number of transporter license plates
1280 reported to the insurance company, which shall be the maximum
1281 number of transporter license plates issued to the applicant.
1282 ~~Such~~ A transporter license plate is valid only for use on an
1283 unregistered ~~any~~ motor vehicle in the possession of the
1284 transporter while the motor vehicle is being transported in the
1285 course of the transporter's business and must not be attached to
1286 any vehicle owned by the transporter or his or her business for
1287 which registration would otherwise be required. A person who
1288 sells or unlawfully possesses, distributes, or brokers a
1289 transporter license plate to be attached to any vehicle commits
1290 a misdemeanor of the second degree, punishable as provided in s.
1291 775.082 or s. 775.083. Any and all transporter license plates
1292 issued are subject to cancellation by the department.
1293 (b) A person who knowingly and willfully sells or
1294 unlawfully possesses, distributes, or brokers a transporter
1295 license plate to avoid registering a vehicle requiring
1296 registration pursuant to this chapter or chapter 319 commits a
1297 misdemeanor of the first degree, punishable as provided in s.
1298 775.082 or s. 775.083, and is disqualified from transporter
1299 license plate usage. All transporter license plates issued to
1300 the person's business shall be canceled and must be returned to
1301 the department immediately upon disqualification. The
1302 transporter license plate is subject to removal as provided in



314566

576-04061-17

1303 subsection (9), and any and all transporter plates issued are
1304 subject to cancellation by the department.
1305 (5) A transporter license plate eligible business issued a
1306 transporter license plate must maintain for 2 years, at its
1307 location, records of each use of each transporter license plate
1308 and evidence that the plate was used as required by this
1309 chapter. Such records must be open to inspection by the
1310 department or its agents or any law enforcement officer during
1311 reasonable business hours. A person who fails to maintain true
1312 and accurate records of any transporter license plate usage or
1313 comply with this subsection commits a misdemeanor of the second
1314 degree, punishable as provided in s. 775.082 or s. 775.083, may
1315 be subject to cancellation of any and all transporter license
1316 plates issued, and is automatically disqualified from future
1317 transporter license plate issuance.
1318 (6) When attached to a motor vehicle, a transporter license
1319 plate issued under this section must be accompanied by the
1320 registration issued for the transporter license plate by the
1321 department and proof of insurance as described in subsection
1322 (3). A person who operates a motor vehicle with a transporter
1323 license plate attached who fails to provide the documentation
1324 listed in this subsection commits a misdemeanor of the second
1325 degree, punishable as provided in s. 775.082 or s. 775.083, and
1326 the transporter license plate is subject to removal as provided
1327 in subsection (9). This subsection does not apply to a person
1328 who contracts with dealers and auctions to transport motor
1329 vehicles.
1330 (7)(2) A transporter license plate issued pursuant to
1331 subsection (4) (1) must be in a distinctive color approved by



314566

576-04061-17

the department, and the word "transporter" must appear on the face of the license plate in place of the county name.

~~(8)(3) An initial registration or renewal A license plate~~ issued under this section is valid for ~~a period of~~ 12 months, beginning January 1 and ending December 31. ~~A~~ No refund of the license tax imposed may not be provided for any unexpired portion of a license period.

(9) A transporter license plate attached to a motor vehicle in violation of subsection (4) or subsection (6) must be immediately removed by a law enforcement officer from the motor vehicle to which it was attached and surrendered to the department by the law enforcement agency for cancellation.

Section 26. Subsections (1) and (2) of section 320.27, Florida Statutes, are amended to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(a) "Department" means the Department of Highway Safety and Motor Vehicles.

(b) "Motor vehicle" means any motor vehicle of the type and kind required to be registered and titled under chapter 319 and this chapter, except a recreational vehicle, moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, or mobile home.

(c) "Motor vehicle dealer" means any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or



314566

576-04061-17

retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1). Any person who buys, sells, or deals in three or more motor vehicles in any 12-month period or who offers or displays for sale three or more motor vehicles in any 12-month period shall be prima facie presumed to be a motor vehicle dealer. Any person who engages in possessing, storing, or displaying motor vehicles for retail sale; advertising motor vehicles for retail sale; negotiating with consumers regarding the terms of sale for a motor vehicle; providing test drives of motor vehicles offered for sale; or delivering or arranging for the delivery of a motor vehicle in conjunction with the sale of such motor vehicle is deemed to be dealing in motor vehicles engaged in such business. The terms "selling" and "sale" include lease-purchase transactions. A motor vehicle dealer may, at retail or wholesale, sell a recreational vehicle as described in s. 320.01(1)(b)1.-6. and 8., acquired in exchange for the sale of a motor vehicle, provided such acquisition is incidental to the principal business of being a motor vehicle dealer. However, a motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless licensed as a recreational vehicle dealer pursuant to s. 320.771. A motor vehicle dealer may apply for a certificate of title to a motor vehicle required to be registered under s. 320.08(2)(b), (c), and (d), using a manufacturer's statement of origin as permitted by s. 319.23(1), only if such dealer is authorized by a franchised agreement as defined in s. 320.60(1), to buy, sell, or deal in such vehicle and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the



314566

576-04061-17

1390 motor vehicle; provided this limitation shall not apply to
1391 recreational vehicles, van conversions, or any other motor
1392 vehicle manufactured on a truck chassis. The transfer of a motor
1393 vehicle by a dealer not meeting these qualifications shall be
1394 titled as a used vehicle. The classifications of motor vehicle
1395 dealers are defined as follows:

1396 1. "Franchised motor vehicle dealer" means any person who
1397 engages in the business of repairing, servicing, buying,
1398 selling, or dealing in motor vehicles pursuant to an agreement
1399 as defined in s. 320.60(1).

1400 2. "Independent motor vehicle dealer" means any person
1401 other than a franchised or wholesale motor vehicle dealer who
1402 engages in the business of buying, selling, or dealing in motor
1403 vehicles, and who may service and repair motor vehicles.

1404 3. "Wholesale motor vehicle dealer" means any person who
1405 engages exclusively in the business of buying, selling, or
1406 dealing in motor vehicles at wholesale or with motor vehicle
1407 auctions. Such person shall be licensed to do business in this
1408 state, shall not sell or auction a vehicle to any person who is
1409 not a licensed dealer, and shall not have the privilege of the
1410 use of dealer license plates. Any person who buys, sells, or
1411 deals in motor vehicles at wholesale or with motor vehicle
1412 auctions on behalf of a licensed motor vehicle dealer and as a
1413 bona fide employee of such licensed motor vehicle dealer is not
1414 required to be licensed as a wholesale motor vehicle dealer. In
1415 such cases it shall be prima facie presumed that a bona fide
1416 employer-employee relationship exists. A wholesale motor vehicle
1417 dealer shall be exempt from the display provisions of this
1418 section but shall maintain an office wherein records are kept in



314566

576-04061-17

1419 order that those records may be inspected.

1420 4. "Motor vehicle auction" means any person offering motor
1421 vehicles or recreational vehicles for sale to the highest bidder
1422 where buyers are licensed motor vehicle dealers. Such person
1423 shall not sell a vehicle to anyone other than a licensed motor
1424 vehicle dealer.

1425 5. "Salvage motor vehicle dealer" means any person who
1426 engages in the business of acquiring salvaged or wrecked motor
1427 vehicles for the purpose of reselling them and their parts.

1428
1429 Notwithstanding anything in this subsection to the contrary, the
1430 term "motor vehicle dealer" does not include persons not engaged
1431 in the purchase or sale of motor vehicles as a business who are
1432 disposing of vehicles acquired for their own use or for use in
1433 their business or acquired by foreclosure or by operation of
1434 law, provided such vehicles are acquired and sold in good faith
1435 and not for the purpose of avoiding the provisions of this law;
1436 persons engaged in the business of manufacturing, selling, or
1437 offering or displaying for sale at wholesale or retail no more
1438 than 25 trailers in a 12-month period; public officers while
1439 performing their official duties; receivers; trustees,
1440 administrators, executors, guardians, or other persons appointed
1441 by, or acting under the judgment or order of, any court; banks,
1442 finance companies, or other loan agencies that acquire motor
1443 vehicles as an incident to their regular business; motor vehicle
1444 brokers; persons whose sole dealing in motor vehicles is owning
1445 a publication in which, or hosting a website on which, licensed
1446 motor vehicle dealers display vehicles for sale; and motor
1447 vehicle rental and leasing companies that sell motor vehicles to



314566

576-04061-17

1448 motor vehicle dealers licensed under this section. Vehicles
1449 owned under circumstances described in this paragraph may be
1450 disposed of at retail, wholesale, or auction, unless otherwise
1451 restricted. A manufacturer of fire trucks, ambulances, or school
1452 buses may sell such vehicles directly to governmental agencies
1453 or to persons who contract to perform or provide firefighting,
1454 ambulance, or school transportation services exclusively to
1455 governmental agencies without processing such sales through
1456 dealers if such fire trucks, ambulances, school buses, or
1457 similar vehicles are not presently available through motor
1458 vehicle dealers licensed by the department.

1459 (d) "Motor vehicle broker" means any person engaged in the
1460 business of, or who holds himself or herself out through
1461 solicitation, advertisement, or who otherwise holds himself or
1462 herself out as being in the business of, ~~offering to procure or~~
1463 ~~procuring motor vehicles for~~ assisting the general public in
1464 purchasing or leasing a motor vehicle from a licensed motor
1465 vehicle dealer, or who holds himself or herself out through
1466 solicitation, advertisement, or otherwise as one who offers to
1467 procure or procures motor vehicles for the general public, and
1468 who does not deal in motor vehicles as provided in paragraph
1469 (1) (c) store, display, or take ownership of any vehicles for the
1470 purpose of selling such vehicles. Any advertisement or
1471 solicitation by a motor vehicle broker must include a statement
1472 that the broker is receiving a fee and must clearly state that
1473 the person is not a licensed motor vehicle dealer.

1474 (e) "Person" means any natural person, firm, partnership,
1475 association, or corporation.

1476 (f) "Bona fide employee" means a person who is employed by



314566

576-04061-17

1477 a licensed motor vehicle dealer and receives annually an
1478 Internal Revenue Service Form W-2, or an independent contractor
1479 who has a written contract with a licensed motor vehicle dealer
1480 and receives annually an Internal Revenue Service Form 1099, for
1481 the purpose of acting in the capacity of or conducting motor
1482 vehicle sales transactions as a motor vehicle dealer.

1483 (2) LICENSE REQUIRED.—No person shall engage in business
1484 as, serve in the capacity of, or act as a motor vehicle dealer
1485 in this state without first obtaining a license therefor in the
1486 appropriate classification as provided in this section. With the
1487 exception of transactions with motor vehicle auctions, no person
1488 other than a licensed motor vehicle dealer may advertise for
1489 sale any motor vehicle belonging to another party unless as a
1490 direct result of a bona fide legal proceeding, court order,
1491 settlement of an estate, or by operation of law. However, owners
1492 of motor vehicles titled in their names may advertise and offer
1493 vehicles for sale on their own behalf. It shall be unlawful for
1494 a licensed motor vehicle dealer to allow any person other than a
1495 bona fide employee to use the motor vehicle dealer license for
1496 the purpose of acting in the capacity of or conducting motor
1497 vehicle sales transactions as a motor vehicle dealer. Any person
1498 acting selling or offering a motor vehicle for sale in violation
1499 of the licensing requirements of this subsection, or who
1500 misrepresents to any person its relationship with any
1501 manufacturer, importer, or distributor, in addition to the
1502 penalties provided herein, is shall be deemed to have committed
1503 guilty of an unfair and deceptive trade practice in violation of
1504 as defined in part II of chapter 501 and is shall be subject to
1505 the provisions of subsections (8) and (9).



314566

576-04061-17

1506 Section 27. Section 321.25, Florida Statutes, is amended to
1507 read:

1508 321.25 Training provided at patrol schools; reimbursement
1509 of tuition and other course expenses.—

1510 (1) The Department of Highway Safety and Motor Vehicles may
1511 is authorized to provide for the training of law enforcement
1512 officials and individuals in matters relating to the duties,
1513 functions, and powers of the Florida Highway Patrol in the
1514 schools established by the department for the training of
1515 highway patrol candidates and officers. The Department of
1516 Highway Safety and Motor Vehicles may is authorized to charge a
1517 fee for providing the training authorized by this section. The
1518 fee shall be charged to persons attending the training. The fee
1519 shall be based on the Department of Highway Safety and Motor
1520 Vehicles' costs for providing the training, and such costs may
1521 include, but are not limited to, tuition, lodging, and meals.
1522 Revenues from the fees shall be used to offset the Department of
1523 Highway Safety and Motor Vehicles' costs for providing the
1524 training. The cost of training local enforcement officers shall
1525 be paid for by their respective offices, counties, or
1526 municipalities, as the case may be. Such cost shall be deemed a
1527 proper county or municipal expense or a proper expenditure of
1528 the office of sheriff.

1529 (2) Notwithstanding s. 943.16, a person who attends
1530 training under subsection (1) at the expense of the Department
1531 of Highway Safety and Motor Vehicles must remain in the
1532 employment or appointment of the Florida Highway Patrol for at
1533 least 3 years. Once employed, if the person fails to remain
1534 employed by the Florida Highway Patrol for at least 3 years from



314566

576-04061-17

1535 the first date of employment, the person must pay the cost of
1536 tuition and other course expenses to the Department of Highway
1537 Safety and Motor Vehicles. As used in this section, the term
1538 "other course expenses" may include the cost of meals and
1539 lodging.

1540 (3) The Department of Highway Safety and Motor Vehicles may
1541 institute a civil action to collect the cost of tuition and
1542 other course expenses if it is not reimbursed pursuant to
1543 subsection (2), provided that the Florida Highway Patrol gave
1544 written notification to the person of the 3-year employment
1545 commitment during the employment screening process and the
1546 person returned signed acknowledgment of receipt of such
1547 notification.

1548 (4) Notwithstanding any other provision of this section,
1549 the Department of Highway Safety and Motor Vehicles may waive a
1550 person's requirement of reimbursement in part or in full when
1551 the person terminates employment due to hardship or extenuating
1552 circumstances.

1553 Section 28. Subsection (4) of section 322.01, Florida
1554 Statutes, is amended to read:

1555 322.01 Definitions.—As used in this chapter:

1556 (4) "Authorized emergency vehicle" means a vehicle that is
1557 equipped with extraordinary audible and visual warning devices,
1558 that is authorized by s. 316.2397 to display red, red and white,
1559 or blue lights, and that is on call to respond to emergencies.
1560 The term includes, but is not limited to, ambulances, law
1561 enforcement vehicles, fire trucks, and other rescue vehicles.
1562 The term does not include wreckers, utility trucks, or other
1563 vehicles that are used only incidentally for emergency purposes.



314566

576-04061-17

1564 Section 29. Subsection (4) of section 322.03, Florida
1565 Statutes, is amended to read:
1566 322.03 Drivers must be licensed; penalties.—
1567 (4) A person may not operate a motorcycle unless he or she
1568 holds a driver license that authorizes such operation, subject
1569 to the appropriate restrictions and endorsements. A person may
1570 operate an autocycle without a motorcycle endorsement.
1571 Section 30. Subsections (1) and (2) of section 322.032,
1572 Florida Statutes, are amended to read
1573 322.032 Digital proof of driver license.—
1574 (1) The department, in collaboration with the Agency for
1575 State Technology, shall establish and implement ~~begin to review~~
1576 ~~and prepare for the development of a~~ secure and uniform
1577 protocols and standards system ~~system~~ for issuing an optional digital
1578 proof of driver license and shall procure any application
1579 programming interface necessary to enable a private entity to
1580 securely manufacture a digital proof of driver license. The
1581 department may contract with one or more private entities to
1582 develop a digital proof of driver license system.
1583 (2) ~~(a) A~~ The digital proof of driver license ~~developed by~~
1584 ~~the department or by an entity contracted by the department~~ must
1585 be in such a format as to allow law enforcement to verify the
1586 authenticity of the digital proof of driver license. The
1587 department may adopt rules to ensure valid authentication of a
1588 digital proof of driver license ~~licenses~~ by law enforcement.
1589 (b) The act of presenting to a law enforcement officer an
1590 electronic device displaying a digital proof of driver license
1591 does not constitute consent for the officer to access any
1592 information on the device other than the digital proof of driver



314566

576-04061-17

1593 license.
1594 (c) A person who presents such device to the officer
1595 assumes liability for any resulting damage to the device.
1596 Section 31. Paragraph (e) of subsection (8) of section
1597 322.051, Florida Statutes, is amended to read:
1598 322.051 Identification cards.—
1599 (8)
1600 (e)1. Upon request by a person who has posttraumatic stress
1601 disorder, a traumatic brain injury, or a developmental
1602 disability, or by a parent or guardian of a child or ward who
1603 has posttraumatic stress disorder, a traumatic brain injury, or
1604 a developmental disability, the department shall issue an
1605 identification card exhibiting a capital "D" for the person,
1606 child, or ward if the person or the parent or guardian of the
1607 child or ward submits:
1608 a. Payment of an additional \$1 fee; and
1609 b. Proof acceptable to the department of a diagnosis by a
1610 licensed physician of a developmental disability as defined in
1611 s. 393.063, posttraumatic stress disorder, or traumatic brain
1612 injury.
1613 2. The department shall deposit the additional \$1 fee into
1614 the Agency for Persons with Disabilities Operations and
1615 Maintenance Trust Fund under s. 20.1971(2).
1616 3. A replacement identification card that includes the
1617 designation may be issued without payment of the fee required
1618 under s. 322.21(1)(f).
1619 4. The department shall develop rules to facilitate the
1620 issuance, requirements, and oversight of posttraumatic stress
1621 disorder, traumatic brain injury, and developmental disability



314566

576-04061-17

identification cards under this section.

Section 32. Paragraph (m) of subsection (8) of section 322.08, Florida Statutes, is amended to read:

322.08 Application for license; requirements for license and identification card forms.—

(8) The application form for an original, renewal, or replacement driver license or identification card must include language permitting the following:

(m) A voluntary contribution of \$1 per applicant, which shall be distributed to Preserve Vision ~~Prevent Blindness~~ Florida, a not-for-profit organization, to prevent blindness and preserve the sight of the residents of this state.

A statement providing an explanation of the purpose of the trust funds shall also be included. For the purpose of applying the service charge provided under s. 215.20, contributions received under paragraphs (b)-(t) are not income of a revenue nature.

Section 33. Subsection (5) of section 322.091, Florida Statutes, is amended to read:

322.091 Attendance requirements.—

(5) REPORTING AND ACCOUNTABILITY.—The department shall make available, upon request, a report ~~quarterly~~ to each school district of the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended under this section.

Section 34. Subsections (1) and (5) of section 322.12, Florida Statutes, are amended to read:

322.12 Examination of applicants.—

(1) It is the intent of the Legislature that every



314566

576-04061-17

applicant for an original driver license in this state be required to pass an examination pursuant to this section. However, the department may waive the knowledge, endorsement, and skills tests for an applicant who is otherwise qualified and who surrenders a valid driver license from another state or a province of Canada, or a valid driver license issued by the United States Armed Forces, if the driver applies for a Florida license of an equal or lesser classification. An ~~Any~~ applicant who fails to pass the initial knowledge test incurs a \$10 fee for each subsequent test, to be deposited into the Highway Safety Operating Trust Fund; however, if a subsequent test is administered by the tax collector, the tax collector shall retain the \$10 fee, less the General Revenue Service Charge set forth in s. 215.20(1). An ~~Any~~ applicant who fails to pass the initial skills test incurs a \$20 fee for each subsequent test, to be deposited into the Highway Safety Operating Trust Fund; however, if a subsequent test is administered by the tax collector, the tax collector shall retain the \$20 fee, less the General Revenue Service Charge set forth in s. 215.20(1). A person who seeks to retain a hazardous-materials endorsement, pursuant to s. 322.57(1)(e), must pass the hazardous-materials test, upon surrendering his or her commercial driver license, if the person has not taken and passed the hazardous-materials test within 2 years before applying for a commercial driver license in this state.

(5)(a) The department shall formulate a separate examination for applicants for licenses to operate motorcycles. Any applicant for a driver license who wishes to operate a motorcycle, and who is otherwise qualified, must successfully



314566

576-04061-17

1680 complete such an examination, which is in addition to the
1681 examination administered under subsection (3). The examination
1682 must test the applicant's knowledge of the operation of a
1683 motorcycle and of any traffic laws specifically relating thereto
1684 and must include an actual demonstration of his or her ability
1685 to exercise ordinary and reasonable control in the operation of
1686 a motorcycle. Any applicant who fails to pass the initial
1687 knowledge examination will incur a \$5 fee for each subsequent
1688 examination, to be deposited into the Highway Safety Operating
1689 Trust Fund. Any applicant who fails to pass the initial skills
1690 examination will incur a \$10 fee for each subsequent
1691 examination, to be deposited into the Highway Safety Operating
1692 Trust Fund. In the formulation of the examination, the
1693 department shall consider the use of the Motorcycle Operator
1694 Skills Test and the Motorcycle in Traffic Test offered by the
1695 Motorcycle Safety Foundation. The department shall indicate on
1696 the license of any person who successfully completes the
1697 examination that the licensee is authorized to operate a
1698 motorcycle. If the applicant wishes to be licensed to operate a
1699 motorcycle only, he or she need not take the skill or road test
1700 required under subsection (3) for the operation of a motor
1701 vehicle, and the department shall indicate such a limitation on
1702 his or her license as a restriction. Every first-time applicant
1703 for licensure to operate a motorcycle must provide proof of
1704 completion of a motorcycle safety course, as provided for in s.
1705 322.0255, before the applicant may be licensed to operate a
1706 motorcycle.

1707 (b) The department may exempt any applicant from the
1708 examination provided in this subsection if the applicant



314566

576-04061-17

1709 presents a certificate showing successful completion of a course
1710 approved by the department, which course includes a similar
1711 examination of the knowledge and skill of the applicant in the
1712 operation of a motorcycle.

1713 (c) This subsection does not apply to the operation of an
1714 autocycle.

1715 Section 35. Paragraph (d) is added to subsection (1) of
1716 section 322.135, Florida Statutes, to read:

1717 322.135 Driver license agents.—

1718 (1) The department shall, upon application, authorize by
1719 interagency agreement any or all of the tax collectors who are
1720 constitutional officers under s. 1(d), Art. VIII of the State
1721 Constitution in the several counties of the state, subject to
1722 the requirements of law, in accordance with rules of the
1723 department, to serve as its agent for the provision of specified
1724 driver license services.

1725 (d) Each tax collector shall provide the same driver
1726 license services in office to residents of other counties that
1727 it provides for residents of its home county.

1728 Section 36. Paragraph (b) of subsection (1) of section
1729 322.17, Florida Statutes, is amended to read:

1730 322.17 Replacement licenses, identification cards, and
1731 permits.—

1732 (1)

1733 (b) In the event that an instruction permit, ~~or~~ driver
1734 license, or identification card issued under ~~the provisions of~~
1735 this chapter is stolen, the person to whom the same was issued
1736 may, at no charge, obtain a replacement upon furnishing proof
1737 satisfactory to the department that such permit, ~~or~~ license, or



314566

576-04061-17

1738 ~~identification card~~ was stolen and further furnishing the
1739 ~~person's~~ full name, date of birth, sex, residence and mailing
1740 address, proof of birth satisfactory to the department, and
1741 proof of identity satisfactory to the department.

1742 Section 37. Paragraphs (e) and (i) of subsection (1) and
1743 subsection (8) of section 322.21, Florida Statutes, are amended,
1744 and subsection (10) is added to that section, to read:

1745 322.21 License fees; procedure for handling and collecting
1746 fees.—

1747 (1) Except as otherwise provided herein, the fee for:

1748 (e) A replacement driver license issued pursuant to s.
1749 322.17 is \$25. Of this amount, \$7 shall be deposited into the
1750 Highway Safety Operating Trust Fund and \$18 shall be deposited
1751 into the General Revenue Fund. ~~Beginning July 1, 2015, or upon~~
1752 ~~completion of the transition of driver license issuance~~
1753 ~~services~~, If the replacement driver license is issued by the tax
1754 collector, the tax collector shall retain the \$7 that would
1755 otherwise be deposited into the Highway Safety Operating Trust
1756 Fund and the remaining revenues shall be deposited into the
1757 General Revenue Fund.

1758 ~~(i) The specialty driver license or identification card~~
1759 ~~issued pursuant to s. 322.1415 is \$25, which is in addition to~~
1760 ~~other fees required in this section. The fee shall be~~
1761 ~~distributed as follows:~~

1762 ~~1. Fifty percent shall be distributed as provided in s.~~
1763 ~~320.08058 to the appropriate state or independent university,~~
1764 ~~professional sports team, or branch of the United States Armed~~
1765 ~~Forces.~~

1766 ~~2. Fifty percent shall be distributed to the department for~~



314566

576-04061-17

1767 ~~costs directly related to the specialty driver license and~~
1768 ~~identification card program and to defray the costs associated~~
1769 ~~with production enhancements and distribution.~~

1770 (8) ~~A~~ Any person who applies for reinstatement following
1771 the suspension or revocation of the person's driver license must
1772 pay a service fee of \$45 following a suspension, and \$75
1773 following a revocation, which is in addition to the fee for a
1774 license. ~~A~~ Any person who applies for reinstatement of a
1775 commercial driver license following the disqualification of the
1776 person's privilege to operate a commercial motor vehicle shall
1777 pay a service fee of \$75, which is in addition to the fee for a
1778 license. The department shall collect all of these fees at the
1779 time of reinstatement. The department shall issue proper
1780 receipts for such fees and shall promptly transmit all funds
1781 received by it as follows:

1782 (a) Of the \$45 fee received from a licensee for
1783 reinstatement following a suspension:

1784 1. If the reinstatement is processed by the department, the
1785 department shall deposit \$15 in the General Revenue Fund and \$30
1786 in the Highway Safety Operating Trust Fund.

1787 2. If the reinstatement is processed by the tax collector,
1788 \$15, less the General Revenue Service Charge set forth in s.
1789 215.20(1), shall be retained by the tax collector, \$15 shall be
1790 deposited into the Highway Safety Operating Trust Fund, and \$15
1791 shall be deposited into the General Revenue Fund.

1792 (b) Of the \$75 fee received from a licensee for
1793 reinstatement following a revocation or disqualification:

1794 1. If the reinstatement is processed by the department, the
1795 department shall deposit \$35 in the General Revenue Fund and \$40



314566

576-04061-17

in the Highway Safety Operating Trust Fund.

2. If the reinstatement is processed by the tax collector, \$20, less the General Revenue Service Charge set forth in s. 215.20(1), shall be retained by the tax collector, \$20 shall be deposited into the Highway Safety Operating Trust Fund, and \$35 shall be deposited into the General Revenue Fund.

If the revocation or suspension of the driver license was for a violation of s. 316.193, or for refusal to submit to a lawful breath, blood, or urine test, an additional fee of \$130 must be charged. However, only one \$130 fee may be collected from one person convicted of violations arising out of the same incident. The department shall collect the \$130 fee and deposit the fee into the Highway Safety Operating Trust Fund at the time of reinstatement of the person's driver license, but the fee may not be collected if the suspension or revocation is overturned. If the revocation or suspension of the driver license was for a conviction for a violation of s. 817.234(8) or (9) or s. 817.505, an additional fee of \$180 is imposed for each offense. The department shall collect and deposit the additional fee into the Highway Safety Operating Trust Fund at the time of reinstatement of the person's driver license.

(10) An applicant who submits an application for a renewal or replacement driver license or identification card to the department using a convenience service shall be provided with an option for expedited shipping whereby the department, at the applicant's request, shall issue the license or identification card within 5 working days after receipt of the application and ship the license or card using an expedited mail service. A fee



314566

576-04061-17

shall be charged for the expedited shipping option, not to exceed the cost of the expedited mail service, which is in addition to fees imposed by s. 322.051, this section, or the convenience service. Fees collected for the expedited shipping option shall be deposited into the Highway Safety Operating Trust Fund.

Section 38. Subsection (1) of section 322.61, Florida Statutes, is amended, and subsection (2) of that section is reenacted, to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(1) A person who, for offenses occurring within a 3-year period, is convicted of two of the following serious traffic violations, or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days. A holder of a commercial driver license or commercial learner's permit who, for offenses occurring within a 3-year period, is convicted of two of the following serious traffic violations, or any combination thereof, arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege:

(a) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;



314566

576-04061-17

1854 (b) Reckless driving, as defined in s. 316.192;
1855 (c) Unlawful speed of 15 miles per hour or more above the
1856 posted speed limit;
1857 (d) Improper lane change, as defined in s. 316.085;
1858 (e) Following too closely, as defined in s. 316.0895;
1859 (f) Texting while driving a commercial motor vehicle, as
1860 prohibited by 49 C.F.R. 392.80;
1861 (g) Using a handheld mobile telephone while driving a
1862 commercial motor vehicle, as prohibited by 49 C.F.R. 392.82;
1863 (h) ~~(f)~~ Driving a commercial vehicle without obtaining a
1864 commercial driver license;
1865 (i) ~~(g)~~ Driving a commercial vehicle without the proper
1866 class of commercial driver license or commercial learner's
1867 permit or without the proper endorsement; or
1868 (j) ~~(h)~~ Driving a commercial vehicle without a commercial
1869 driver license or commercial learner's permit in possession, as
1870 required by s. 322.03.
1871 (2) (a) Any person who, for offenses occurring within a 3-
1872 year period, is convicted of three serious traffic violations
1873 specified in subsection (1) or any combination thereof, arising
1874 in separate incidents committed in a commercial motor vehicle
1875 shall, in addition to any other applicable penalties, including
1876 but not limited to the penalty provided in subsection (1), be
1877 disqualified from operating a commercial motor vehicle for a
1878 period of 120 days.
1879 (b) A holder of a commercial driver license or commercial
1880 learner's permit who, for offenses occurring within a 3-year
1881 period, is convicted of three serious traffic violations
1882 specified in subsection (1) or any combination thereof arising



314566

576-04061-17

1883 in separate incidents committed in a noncommercial motor vehicle
1884 shall, in addition to any other applicable penalties, including,
1885 but not limited to, the penalty provided in subsection (1), be
1886 disqualified from operating a commercial motor vehicle for a
1887 period of 120 days if such convictions result in the suspension,
1888 revocation, or cancellation of the licenseholder's driving
1889 privilege.
1890 Section 39. Section 324.031, Florida Statutes, is amended
1891 to read:
1892 324.031 Manner of proving financial responsibility.—The
1893 owner or operator of a taxicab, limousine, jitney, or any other
1894 for-hire passenger transportation vehicle may prove financial
1895 responsibility by providing satisfactory evidence of holding a
1896 motor vehicle liability policy as defined in s. 324.021(8) or s.
1897 324.151, which policy is provided by an insurer authorized to do
1898 business in this state ~~issued by an insurance carrier~~ which is a
1899 member of the Florida Insurance Guaranty Association or is an
1900 eligible surplus lines insurer that has a superior, excellent,
1901 exceptional, or equivalent financial strength rating by a rating
1902 agency acceptable to the Office of Insurance Regulation of the
1903 Financial Services Commission. The operator or owner of any
1904 other vehicle may prove his or her financial responsibility by:
1905 (1) Furnishing satisfactory evidence of holding a motor
1906 vehicle liability policy as defined in ss. 324.021(8) and
1907 324.151;
1908 (2) Furnishing a certificate of self-insurance showing a
1909 deposit of cash in accordance with s. 324.161; or
1910 (3) Furnishing a certificate of self-insurance issued by
1911 the department in accordance with s. 324.171.



314566

576-04061-17

1912
1913 Any person, including any firm, partnership, association,
1914 corporation, or other person, other than a natural person,
1915 electing to use the method of proof specified in subsection (2)
1916 shall furnish a certificate of deposit equal to the number of
1917 vehicles owned times \$30,000, to a maximum of \$120,000; in
1918 addition, any such person, other than a natural person, shall
1919 maintain insurance providing coverage in excess of limits of
1920 \$10,000/20,000/10,000 or \$30,000 combined single limits, and
1921 such excess insurance shall provide minimum limits of
1922 \$100,000/\$300,000 ~~\$125,000/250,000~~ /50,000 or \$300,000 combined
1923 single limits. These increased limits shall not affect the
1924 requirements for proving financial responsibility under s.
1925 324.032(1).
1926 Section 40. Section 877.27, Florida Statutes, is amended to
1927 read:
1928 877.27 Unauthorized transmissions to, or interference with,
1929 a public or commercial radio station licensed by the Federal
1930 Communications Commission or global positioning system
1931 prohibited; penalties.-
1932 (1) A person may not:
1933 (a) Make, or cause to be made, a radio transmission in this
1934 state unless the person obtains a license or an exemption from
1935 licensure from the Federal Communications Commission under 47
1936 U.S.C. s. 301, or other applicable federal law or regulation; or
1937 (b) Do any act, whether direct or indirect, to cause an
1938 unlicensed radio transmission to, or interference with, a public
1939 or commercial radio station licensed by the Federal
1940 Communications Commission or to enable the radio transmission or



314566

576-04061-17

1941 interference to occur.
1942 (c) Use a device prohibited by the Federal Communications
1943 Commission which would cause interference with the legal use of
1944 a global positioning system (GPS) to track vehicles.
1945 (2) A person who violates this section commits a felony of
1946 the third degree, punishable as provided in s. 775.082, s.
1947 775.083, or s. 775.084.
1948 Section 41. Paragraph (c) of subsection (1) of section
1949 212.05, Florida Statutes, is amended to read:
1950 212.05 Sales, storage, use tax.-It is hereby declared to be
1951 the legislative intent that every person is exercising a taxable
1952 privilege who engages in the business of selling tangible
1953 personal property at retail in this state, including the
1954 business of making mail order sales, or who rents or furnishes
1955 any of the things or services taxable under this chapter, or who
1956 stores for use or consumption in this state any item or article
1957 of tangible personal property as defined herein and who leases
1958 or rents such property within the state.
1959 (1) For the exercise of such privilege, a tax is levied on
1960 each taxable transaction or incident, which tax is due and
1961 payable as follows:
1962 (c) At the rate of 6 percent of the gross proceeds derived
1963 from the lease or rental of tangible personal property, as
1964 defined herein; however, the following special provisions apply
1965 to the lease or rental of motor vehicles:
1966 1. When a motor vehicle is leased or rented for a period of
1967 less than 12 months:
1968 a. If the motor vehicle is rented in Florida, the entire
1969 amount of such rental is taxable, even if the vehicle is dropped



314566

576-04061-17

off in another state.

b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(13)(a) ~~s. 316.003(12)(a)~~ to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with the provisions of s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

Section 42. Subsection (1) of section 316.303, Florida Statutes, is amended to read:

316.303 Television receivers.—

(1) No motor vehicle may be operated on the highways of this state if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is visible from the driver's seat while the vehicle is in



314566

576-04061-17

motion, unless the vehicle is equipped with autonomous technology, as defined in s. 316.003(3) ~~s. 316.003(2)~~, and is being operated in autonomous mode, as provided in s. 316.85(2).

Section 43. Paragraph (b) of subsection (2) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(2)

(b) The officer or inspector shall inspect the license plate or registration certificate of the commercial vehicle to determine whether its gross weight is in compliance with the declared gross vehicle weight. If its gross weight exceeds the declared weight, the penalty shall be 5 cents per pound on the difference between such weights. In those cases when the commercial vehicle is being operated over the highways of the state with an expired registration or with no registration from this or any other jurisdiction or is not registered under the applicable provisions of chapter 320, the penalty herein shall apply on the basis of 5 cents per pound on that scaled weight which exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen commercial motor vehicle. A driver of a commercial motor vehicle entering the state at a designated port-of-entry location, as defined in s. 316.003 ~~s. 316.003(54)~~, or operating on designated routes to a port-of-entry location, who obtains a temporary registration permit shall be assessed a penalty limited to the difference between its gross weight and the declared gross vehicle weight at 5



314566

576-04061-17

cents per pound. If the license plate or registration has not been expired for more than 90 days, the penalty imposed under this paragraph may not exceed \$1,000. In the case of special mobile equipment, which qualifies for the license tax provided for in s. 320.08(5)(b), being operated on the highways of the state with an expired registration or otherwise not properly registered under the applicable provisions of chapter 320, a penalty of \$75 shall apply in addition to any other penalty which may apply in accordance with this chapter. A vehicle found in violation of this section may be detained until the owner or operator produces evidence that the vehicle has been properly registered. Any costs incurred by the retention of the vehicle shall be the sole responsibility of the owner. A person who has been assessed a penalty pursuant to this paragraph for failure to have a valid vehicle registration certificate pursuant to the provisions of chapter 320 is not subject to the delinquent fee authorized in s. 320.07 if such person obtains a valid registration certificate within 10 working days after such penalty was assessed.

Section 44. Paragraph (a) of subsection (2) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(2) As used in this section, the term "motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of the state. The term does not include:

(a) A school bus as defined in s. 316.003 ~~s. 316.003(68)~~.

Section 45. Subsection (1) of section 655.960, Florida Statutes, is amended to read:



314566

576-04061-17

655.960 Definitions; ss. 655.960-655.965.—As used in this section and ss. 655.961-655.965, unless the context otherwise requires:

(1) "Access area" means any paved walkway or sidewalk which is within 50 feet of any automated teller machine. The term does not include any street or highway open to the use of the public, as defined in s. 316.003(78)(a) or (b) ~~s. 316.003(77)(a) or (b)~~, including any adjacent sidewalk, as defined in s. 316.003.

Section 46. The amendments made by this act to s. 318.18, Florida Statutes, shall apply upon the adoption by rule of uniform traffic citation forms. The Department of Highway Safety and Motor Vehicles shall notify the Division of Law Revision and Information upon the adoption of such forms.

Section 47. Except as otherwise provided in this act, this act shall take effect October 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 784

INTRODUCER: Transportation Committee and Senator Gainer and others

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: April 24, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.	Wells	Pitts	ATD	Recommend: Fav/CS
3.	Wells	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 784 makes numerous changes relating to the Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill:

- Creates a definition of an autocycle, requires occupants of autocycles to wear safety belts, and exempts drivers of autocycles from being required to have a motorcycle endorsement or motorcycles license, or from completing motorcycle knowledge and skills testing in order to operate the autocycle;
- Allows volunteer firefighters to use red and white, in addition to red, warning signals;
- Updates various commercial motor vehicle (CMV) regulations to address compatibility issues with federal law;
- Requires interstate charter buses to register as apportionable vehicles;
- Changes references to the organization “Prevent Blindness Florida” to “Preserve Vision Florida”;
- Increases the time-frame apportionable vehicles must replace their license plates from annually to every five years;
- Allows a person driving a rental vehicle who is stopped by a law enforcement officer or agent of the DHSMV to show an electronic copy of a rental agreement;
- Removes specialty license plates from statute that have been discontinued by the DHSMV;
- Creates a Purple Heart motorcycle license plate and a Bronze Star license plate;
- Makes numerous changes to transporter license plates, including requiring more information from applicants for transporter plates and adding penalties for the misuse of such plates;

- Allows a person diagnosed with posttraumatic stress disorder (PTSD) or traumatic brain injury (TBI) to be eligible to receive a “D” designation on his or her identification (ID) card;
- Increases the amount of time a Florida Highway Patrol (FHP) trooper must stay employed with the FHP to avoid having to reimburse training costs from two years to three years;
- Revises DHSMV reporting requirements relating to driver license suspensions for persons who do not meet school attendance requirements;
- Authorizes tax collectors to retain fees or a portion of fees when they administer subsequent driver license examinations or reinstate licenses;
- Allows the DHSMV to issue a no-fee replacement identification card upon proof to the DHSMV that the card was stolen;
- Provides the option for expedited shipping of a driver license or identification card;
- Removes an obsolete provision relating to specialty driver licenses; and
- Amends numerous cross-references to reflect changes made by the bill.

The bill is intended to address a broad range of federal compliance, customer service and administrative efficiency issues; however, these changes have various indeterminate impacts on state revenues and expenditures.

The Revenue Estimating Conference (REC) reviewed identical sections of the bill on March 10, 2017.¹ The REC estimates that replacing stolen identification cards at no charge to a customer (section 10 of the bill) will have an insignificant negative impact to the General Revenue Fund until Fiscal Years 2020 through 2022, when it will have a negative impact of \$100,000 annually.

The REC estimates that allowing local tax collectors to retain fees or portions of fees for administering subsequent driver license examinations or reinstating licenses (sections 9 and 11) will shift approximately \$5 million from the Highway Safety Operating Trust Fund and \$400,000 from the General Revenue Fund each year to the local tax collectors.

Additionally, the REC estimates, authorizing expedited shipping fees for driver licenses and identification cards (section 11) will have an indeterminate impact in revenues to the extent that expedited shipping is requested.

The bill takes effect October 1, 2017.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of the Proposed Changes.

¹ Office of Economic and Demographic Research, Revenue Estimating Conference, *Highway Safety Fees – HB 545* (Mar. 10, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/Impact0310.pdf> at p. 22-30 (last visited Mar. 15, 2017).

III. Effect of Proposed Changes:

Autocycles (Sections 1, 6, 7, 20, and 24)

Present Situation

An autocycle is commonly defined as a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.² The term “autocycle” is not defined in federal law; however, as of February 2016, at least 22 states have created statutory definitions for an autocycle.³ Currently, the DHSMV registers autocycles as motorcycles.⁴ This means operators of autocycles, generally, are not required to maintain insurance⁵ or wear safety belts⁶, but are required to:

- Maintain a motorcycle endorsement or motorcycle license;⁷
- Wear a helmet, unless over 21 years of age with at least \$10,000 of medical insurance or riding in an enclosed cab;⁸ and
- Wear eye protection⁹;

Since autocycles share more characteristics with passenger motor vehicles than motorcycles, some of the motorcycle requirements, or lack of requirements, may or may not be necessary for autocycles. For example, studies suggest a motorcycle endorsement or motorcycle license should not be required for operating an autocycle.¹⁰ Motorcycle rider courses primarily focus on operating a motorcycle in which the operator sits astride the saddle and uses handlebars, while using his or her body weight, balance, and position on the motorcycle to corner or stop; however, operating an autocycle requires mechanics similar to a passenger motor vehicle. At least 21 states do not require a motorcycle endorsement or motorcycle license to operate an autocycle.¹¹

There is little research or crash data available concerning the safety of autocycles. Since autocycles fall under the definition of a motorcycle they are only required to meet the federal safety standards required for motorcycles; thus, autocycles are not required to meet the crash safety standards or occupant safety criteria that a regular passenger motor vehicle is required to meet. The National Highway Traffic Safety Administration (NHTSA) has concerns that the overall appearance of autocycles, being closer to the appearance of a car than a motorcycle, may cause people to think autocycles are as safe as passenger motor vehicles.¹²

² American Association of Motor Vehicle Administrators (AAMVA), *Best Practices for the Regulation of Three-Wheel Vehicles* (October 2013), available at <http://www.aamva.org/3wheelvehiclebp/> at p. 4 (last visited Mar. 22, 2017).

³ National Conference of State Legislatures (NCSL), *Traffic Safety Trends – State Legislative Action 2015* (Feb. 2016), available at http://www.ncsl.org/Documents/transportation/2015_Traffic_Safety_Trends.pdf at p. 23 (last visited Mar. 22, 2017).

⁴ DHSMV Technical Advisory RS/TL16-015, *Registering the Slingshot* (June 20, 2016), available at https://www.flhsmv.gov/dmv/bulletins/2016/ta_rstl16-015.pdf

⁵ See ch. 324, F.S., on Motor Vehicle Financial Responsibility.

⁶ See s. 316.614(3)(a)5., F.S.

⁷ Section 322.03(4), F.S.

⁸ Section 316.211, F.S.

⁹ Section 316.211(2), F.S.

¹⁰ AAMVA, *supra* note 1 at p. 5 and 9

¹¹ NCSL, *supra* note 2

¹² AAMVA, *supra* note 2 at p. 2

Effect of Proposed Changes

Section 1 amends s. 316.003, F.S., defining an autocycle as a three-wheel motorcycle that has two wheels in the front and one wheel in the back, is equipped with a roll cage or roll hoops, safety belts for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it and is manufactured by a National Highway Traffic Safety Administration (NHTSA) registered manufacturer in accordance with the applicable federal motorcycle safety standards.

Sections 1 and 7 include an autocycle in the definition of a motorcycle. Also, the definition of motorcycle is amended to exempt a vehicle in which the operator is enclosed by a cabin unless the vehicle meets the requirements set forth by the NHTSA for a motorcycle.

Section 6 amends s. 316.614, F.S., to require that the operator, front seat passenger, and any passenger under the age of 18 years old in an autocycle wear a safety belt.

Sections 20 and 24 amend ss. 322.03 and 322.12, F.S., respectively, to exempt operators of an autocycle from needing a motorcycle endorsement or motorcycle license, and from needing to complete motorcycle skills and motorcycle knowledge testing to operate an autocycle.

Volunteer Firefighters – Red and White Warning Signals (Sections 2, 3, and 19)***Present Situation***

Section 316.2397, F.S., authorizes vehicles of the fire department and fire patrol, including vehicles of permitted volunteer firefighters, to show or display red warning signals. Specifically, active volunteer firefighters are authorized to display such red lights or warning signals if the volunteer firefighter has secured a written permit from the chief executive officers of the firefighting organization allowing the use of such signals. This permit is required to be carried at all times while the firefighter displays the red warning signals. The active firefighter may display red lights on their privately owned vehicle while en route to a fire or other emergency in the line of duty, or while en route to the fire station for the purpose of proceeding to a fire or other emergency.¹³

Section 316.2398, F.S., requires that the warning signals must be visible from the front and rear of the vehicle, and requires:

- No more than two red warning signals may be displayed; and
- No inscription of any kind may appear across the face of the lens of the warning signal.

A violation of these requirements is a nonmoving violation, punishable as provided in ch. 318, F.S.,¹⁴ and any volunteer firefighter who violates these requirements shall be dismissed from membership in the firefighting organization.¹⁵

¹³ Section 316.2398(1), F.S.

¹⁴ Chapter 318.18, F.S., provides that a nonmoving traffic violation is a \$30 penalty plus court costs. This could result in a penalty and costs totaling up to \$108.

¹⁵ Section 316.2398(5), F.S.

Effect of Proposed Changes

Sections 2, 3, and 19 amend ss. 316.2397, 316.2398, and 322.01, F.S., respectively, to provide that volunteer firefighters may use red or *red and white* warning signals where provided by law. All of the conditions and restrictions in current law for the use of red warning signals will remain applicable to the use of red and white warning signals.

Federal Motor Carrier Safety Administration Compatibility (Section 4)

Present Situation

The Federal Motor Carrier Safety Administration (FMCSA) was established within the United States Department of Transportation on January 1, 2000. Its primary mission is to prevent commercial motor vehicle (CMV)-related fatalities and injuries.¹⁶

Section 316.302, F.S., provides that all owners and drivers of CMVs¹⁷ operated on the public highways of this state while engaged in *interstate* commerce are subject to the rules and regulations contained in the following parts of the Federal Motor Carrier Safety Regulations¹⁸:

- Part 382, Controlled Substance and Alcohol Use and Testing;
- Part 385, Safety Fitness Procedures;
- Part 390, General Federal Motor Carrier Safety Regulations;
- Part 391, Qualifications of Drivers;
- Part 392, Driving of Commercial Motor Vehicles;
- Part 393, Parts and Accessories Necessary for Safe Operation;
- Part 395, Hours of Service of Drivers;
- Part 396, Inspection, Repair, and Maintenance; and
- Part 397, Transportation of Hazardous Materials; Driving and Parking Rules.

Owners and drivers of CMVs engaged in *intrastate* commerce are subject to the same rules and regulations, unless otherwise provided in s. 316.302, F.S., as such rules and regulations existed on December 31, 2012.¹⁹ To remain compatible with the Federal Motor Carrier Safety Regulations, states generally have up to three years from the effective date of new federal requirements to adopt and enforce such requirements.²⁰ States that remain incompatible risk losing federal funding. A 2007 Florida State Motor Carrier Safety Assistance Program (MCSAP) review found that the Florida Statutes contain multiple compatibility issues.²¹

¹⁶ FMCSA website, *About Us*, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited Feb. 23, 2017).

¹⁷ Section 316.003(12), F.S., defines “commercial motor vehicle” as “any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle: (a) Has a gross vehicle weight rating of 10,000 pounds or more; (b) Is designed to transport more than 15 passengers, including the driver; or (c) Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.).”

¹⁸ 49 C.F.R. ch. III, subchapter B.

¹⁹ Section 316.302(1)(b), F.S.

²⁰ 49 C.F.R. *Appendix A to Part 355 – Guidelines for the Regulatory Review – State Determinations* (2016)

²¹ 2007 Florida State MCSAP Review, *Summary Findings, Recommendations, and Noteworthy Practices* (June 2007) (on file with the Senate Committee on Transportation).

2007 Florida State MCSAP Review Findings

Section 316.302(1)(b), F.S., provides an exception from 49 C.F.R. s. 390.5 as it relates to the definition of a bus, which is defined as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.” Florida law excludes taxicabs from the definition of a bus.²² The MCSAP Review noted that Florida Statutes “exempting, from the definition of a bus, taxicabs as it applies to the intrastate private transportation of passengers, is not compatible” with Federal law.²³

Federal law prohibits certain lamps and reflective devices from being obscured on CMVs.²⁴ However, s. 316.215(5), F.S., provides an exception from this requirement for front-end loading collection vehicles that are engaged in collecting solid waste or recyclable or recovered materials, and are being operated at less than 20 miles per hour with hazard-warning lights activated. According to the MCSAP review, federal law provides no such exemption.²⁵

Section 316.302(2)(d), F.S., provides an exemption from compliance with 49 C.F.R. s. 395.8, requiring driver’s record of duty status, for drivers of CMVs if the driver:

- Is operating solely in intrastate commerce;
- Is not transporting any hazardous materials in amounts that require placarding²⁶;
- Is within 150-air miles of the vehicle’s base location; and
- Complies with specific federal requirements relating to hours of service.²⁷

Additionally, state law provides that if a driver is not released from duty within 12 hours of arriving on duty, the motor carrier must maintain documentation of the driver’s driving times throughout the duty period. The MCSAP review found that the exemption and alternate records requirement contained in s. 316.302(2)(d), F.S., does not comply with federal regulations because the federal exemption also requires that the driver return to the work reporting location and is released from work within 12 consecutive hours.²⁸

Federal law allows a state to exempt a CMV from all or part of its laws or regulations relating to intrastate commerce if the vehicle’s gross vehicle weight, gross vehicle weight rating, gross combined weight, or gross combined weight rating is less than 26,001, and the vehicle is not:

- Transporting hazardous materials requiring a placard; or
- Designed or used to transport 16 or more people, including the driver.²⁹

However, s. 316.302(2)(f), F.S., provides exemptions from federal laws or regulations for a person who operates a CMV solely in intrastate commerce, having a *declared* gross vehicle weight of less than 26,001 pounds, and who is not transporting hazardous materials in an amount that requires placarding, or who is transporting petroleum products. According to the MCSAP

²² Section 316.003(6), F.S.

²³ 2007 Florida State MCSAP Review, *supra* note 20 at p. 2, *FL/FI-1*.

²⁴ 49 C.F.R. s. 393.9(b)

²⁵ 2007 Florida State MCSAP Review, *supra* note 20 at p. 4, *FL/FI-7*.

²⁶ Pursuant to 49 C.F.R. part 172

²⁷ As provided in 49 C.F.R. s. 395.1(e)(1)(iii) and (v).

²⁸ 2007 Florida State MCSAP Review, *supra* note 20 at p. 5, *FL/FI-8*.

²⁹ 49 C.F.R. s. 350.341(a)

Review, the State interprets this statute as exempting such vehicles transporting petroleum products even if a hazardous materials placard is required, which is not in compliance with federal regulations.³⁰

Maximum Driving Time

Section 316.302(2), F.S., provides prohibitions to length of time CMV drivers may drive, as well as exemptions from federal requirements for specified vehicles. Section 316.302(2)(b), F.S., provides that a person who operates a CMV solely in intrastate commerce without any hazardous materials in amounts requiring placarding may not drive:

- More than 12 hours following 10 consecutive hours off duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

Except as provided in the federal hours of service rules³¹, a person operating a CMV solely in intrastate commerce not transporting any hazardous material may not drive after having been on duty more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week.³² Upon request of DHSMV, motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.³³

Effect of Proposed Changes

Section 4 amends multiple provisions in s. 316.302, F.S., addressing federal compatibility issues.

This section amends s. 316.302(1), F.S., to clarify that the section applies to all CMVs except as provided in s. 316.302(3), F.S., relating to covered farm vehicles.

This section amends s. 316.302(1)(b), F.S., to remove an exception to federal law as it relates to the definition of a bus.

This section adopts federal laws that intrastate CMV owners and drivers are required to comply with as such federal rules and regulations existed on December 31, 2016.³⁴ Examples of some of the regulations adopted that directly affect intrastate CMVs include:

- Requiring use of electronic logging devices by drivers required to prepare hours-of-service records of duty status;³⁵

³⁰ 2007 Florida State MCSAP Review, *supra* note 20 at p. 5, *FL/FI-3*.

³¹ 49 C.F.R. s. 395.1

³² Section 316.302(2)(c), F.S.

³³ This penalty is found in 316.302(2)(c), F.S.; However, s. 316.3025, F.S., relating to CMV penalties, provides that a penalty of \$100 may be assessed for a violation of s. 316.302(2)(b) or (c), F.S.

³⁴ A list of Final Rules adopted as of December 31, 2016, that affect FMCSA rules and regulations are available on the FMCSA website, *Rulemaking Documents*, available at <https://www.fmcsa.dot.gov/regulations/search/rulemaking?keyword=&dt=final&topic=> (last visited Mar. 13, 2017).

³⁵ Electronic Logging Devices and Hours of Service Supporting Documents, 80 Fed. Reg. 78291 (Dec. 16, 2015), available at <https://www.federalregister.gov/documents/2015/12/16/2015-31336/electronic-logging-devices-and-hours-of-service-supporting-documents> (last visited Mar. 6, 2017).

- Amending the definition of *gross combination weight rating* to provide clarification;³⁶ and
- Requiring the use of a Unified Registration System to submit required registration and biennial update information to the FMCSA.³⁷

This section amends s. 316.302(1)(d), F.S., to remove an exemption from federal law allowing specified CMVs to obscure certain lighting or reflective devices.

Due to changes in federal law, the section amends s. 316.302(2)(a), F.S., to provide clarity that drivers of intrastate CMVs that are not transporting hazardous materials requiring placarding are exempt from 49 C.F.R. s. 395.3, which provides maximum driving times for property-carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

This removes a duplicate penalty for falsifying hours of service records from s. 316.302(2)(c), F.S.

Section 316.302(2)(d), F.S., is amended to provide that to be exempt from being required to maintain records of duty status for short-haul drivers the driver must also return to the work reporting location and be released from work within 12 consecutive hours.

Lastly, the section amends s. 316.302(2)(f), F.S., to remove specified exemptions for drivers transporting petroleum products. The section also removes that these exemptions apply when a CMV has a *declared* gross vehicle weight of less than 26,001 pounds. This criterion is changed to CMVs having a *gross vehicle weight, gross vehicle weight rating, and gross combined weight rating* of less than 26,001 pounds.

Commercial Motor Vehicle Operator Disqualifications (Sections 5 and 27)

Present Situation

Federal and state laws prohibit drivers of commercial motor vehicles from texting while driving a commercial motor vehicle (CMV) and from using a hand-held mobile telephone while driving a CMV.³⁸ Section 316.3025, F.S., provides that a driver who violates these laws may be assessed a civil penalty of:

- \$500 for the first violation;
- \$1,000 and a 60-day CDL disqualification for a second violation; and
- \$2,750 and a 120-day CDL disqualification for a third and subsequent violation.

However, federal law requires the 60 and 120-day CDL disqualification for these offenses to be assessed for any combination of certain serious traffic violations during a 3-year period.

³⁶ Gross Combination Weight Rating; Definition, 79 Fed. Reg. 15245 (Mar. 19, 2014), *available at* <https://www.federalregister.gov/documents/2014/03/19/2014-05502/gross-combination-weight-rating-definition> (last visited Mar. 13, 2017).

³⁷ Unified Registration System, 78 Fed. Reg. 52607 (Aug. 23, 2013), *available at* <https://www.federalregister.gov/documents/2013/08/23/2013-20446/unified-registration-system> (last visited Mar. 13, 2017). However, the system is currently delayed until all necessary data is transferred to the new database and that is compatible with State partners. See 82 Fed. Reg. 5292.

³⁸ See 49 C.F.R. ss. 392.80 and 392.82, and s. 316.3025, F.S.

Specifically, federal law requires, for offenses occurring within a 3-year period while operating a CMV, a 60-day CDL disqualification for a second conviction and a 120-day CDL disqualification for a third or subsequent conviction of any combination of the following offenses³⁹:

- Excessive speeding (15 mph or more over the posted speed limit);
- Reckless driving;
- Improper lane changes;
- Following too closely;
- A violation of any state or local law relating to motor vehicle traffic control arising in connection with a fatal accident;
- Driving a CMV:
 - Without obtaining a CDL;
 - Without a CDL in the driver's possession;
 - Without the proper class of CDL or endorsements required;
- Violating a state or local law or ordinance on motor vehicle traffic control prohibiting:
 - Texting while driving a CMV; or
 - Use of a hand-held mobile telephone while driving a CMV.

With the exception of texting while driving a CMV and the use of a hand-held mobile phone while driving a CMV, the above penalties and offenses are in state law.⁴⁰ To align with federal law, these two offenses need to be added to the list of disqualifying offenses in s. 316.3025, F.S. According to the DHSMV, non-compliance could result in a loss of federal highway funds.⁴¹

Effect of Proposed Changes

Sections 5 and 27 amend ss. 316.3025 and 322.61, F.S., respectively, to remove the commercial driver license disqualification penalty for texting while driving a CMV and using a hand-held mobile telephone while driving a CMV from s. 316.3025, and adds those offenses to the list of serious disqualifying offenses while operating a commercial motor vehicle listed in s. 322.61, F.S. This change aligns Florida law with federal regulations.

International Registration Plan – Charter Buses (Section 7)

Present Situation

The International Registration Plan (IRP) is a registration reciprocity agreement among all states in the contiguous United States, the District of Columbia, and several Canadian provinces. It provides for the payment of license fees based on fleet operation in various member jurisdictions.⁴² This allows carriers to operate inter-jurisdictionally while only needing to register

³⁹ 49 C.F.R. s. 383.51 (2015), Table 2, available at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-subtitleB-chapIII-subchapB.pdf> at p. 206-207 (last visited Feb 9, 2017).

⁴⁰ See s. 322.61(1), F.S.

⁴¹ Meeting with the DHSMV and Senate Transportation Committee Staff (Jan. 23, 2017).

⁴² International Registration Plan, Inc., *About IRP*, <http://www.irponline.org/?page=AboutIRP> (last visited Feb. 1, 2017).

its vehicles in its base jurisdiction, which is the state or province where the registrant has an established place of business⁴³.

All apportionable vehicles domiciled in the state are required to be registered in accordance with the IRP and display “Apportioned” license plates.⁴⁴ Motor carriers registered under the IRP are also required to maintain specified records for the DHSMV, and may have their registrations and license plates withheld if:⁴⁵

- An identifying number issued by the federal agency responsible for motor carrier safety is not provided for the motor carrier and entity responsible for motor carrier safety for each motor vehicle; or
- A motor carrier or vehicle owner has been prohibited from operating by a federal or state agency responsible for motor carrier safety.

Additionally, the DHSMV has authority to suspend, with notice, any commercial motor vehicle or license plate issued to a motor carrier or vehicle owner who has been prohibited from operating by a federal or state agency responsible for motor carrier safety.⁴⁶ Apportionable vehicles that do not regularly operate in a particular jurisdiction also have the option to register for trip permits in order to operate in IRP member jurisdictions for limited periods where they do not pay license taxes.⁴⁷

The IRP defines an apportionable vehicle as:⁴⁸

[A]ny Power Unit that is used or intended for use in two or more Member Jurisdictions and that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and:

- (i) Has two Axles and a gross Vehicle weight or registered gross Vehicle weight in excess of 26,000 pounds, or
- (ii) Has three or more Axles, regardless of weight, or
- (iii) Is used in combination, when the gross Vehicle weight of such combination exceeds 26,000 pounds.

The definition excludes a recreational vehicle, a vehicle displaying restricted plates, or a government-owned vehicle. However, those excluded vehicles may choose to register under the IRP.

⁴³ As defined by the IRP, (January 2017) available at http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf at p. 16 (last visited Feb. 1, 2017).

⁴⁴ Section 320.0715(1), F.S.

⁴⁵ Section 320.0715(4), F.S.

⁴⁶ Section 320.0715(4)(c), F.S.

⁴⁷ See IRP, Inc., *Trip Permits- Cost/Duration* (May 2016), available at http://www.irponline.org/resource/resmgr/Jurisdiction_Info_2/Trip_Permits_5.19.2016.xlsx (last visited Feb. 6, 2017).

⁴⁸ International Registration Plan (Jan. 2017), available at http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf at p. 12-13 (last visited Feb. 2, 2017).

Prior to January 1, 2016, charter buses were also excluded from having to register under the IRP, but retained the option to do so. The IRP was amended to remove charter buses from the exemption, requiring charter bus operations to register under the IRP. This registration ensures that charter bus operations will pay license fees to each jurisdiction it operates in, and prevents or suspends the registration of unsafe carriers.⁴⁹ As of January 1, 2016, the DHSMV estimates that less than 200 charter bus carriers or companies within the state were required to register under the IRP in order for the state to remain compliant with the reciprocity agreement.⁵⁰

Effect of Proposed Changes

Section 7 amends s. 320.01, F.S., to remove charter buses from the apportionable vehicle exclusion. This change is necessary to align with the requirements of the IRP. All charter buses operating interstate are now required to obtain an IRP registration or purchase trip permits.

Prevent Blindness Florida Organization Name Change (Sections 8, 14 and 22)

Present Situation

In May of 2016, the organization Prevent Blindness Florida changed their name to Preserve Vision Florida.⁵¹

Effect of Proposed Changes

Sections 8, 14 and 22 amend ss. 320.02, 320.08068 and 322.08, F.S., respectively, pertaining to the DHSMV to recognize the organization's name change.

Issuance of Apportionable Vehicle Plates (Sections 9 and 11)

Present Situation

Registration license plates, which bear a graphic symbol and alphanumeric system of identification, are issued for a 10-year period. However, "Apportioned" license plates issued to vehicles registered under the International Registration Plan (IRP), are issued annually.⁵² Each original plate costs \$28, which is deposited into the Highway Safety Operating Trust Fund (HSOTF). Apportioned vehicles are also issued an annual cab card that denotes the declared gross vehicle weight for each apportioned jurisdiction where the vehicle is authorized to operate.⁵³

⁴⁹ See IRP, Inc., *Official Amendment to the International Registration Plan* (June 2014)

http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/irp_ballots/ballot_391.pdf (last visited Feb. 3, 2017).

⁵⁰ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

⁵¹ Department of State, Division of Corporations – Sunbiz.org, *Preserve Vision Florida, Inc.* (May 4, 2016), <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2016%5C0509%5C84865905.Tif&documentNumber=706503> (last visited Mar. 22, 2017).

⁵² Section 320.06(1)(b)1., F.S.

⁵³ See IRP, Inc., *State of Florida Apportioned Cab Card Sample*,

http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/cab_cards/fl_cc_sample.pdf (last visited Feb. 8, 2017).

Effect of Proposed Changes

Sections 9 and 11 amend ss. 320.06 and 320.0607, F.S., respectively, to provide that beginning October 1, 2018, apportioned vehicles will be issued license plates valid for a 5-year period, instead of annually. If the license plate is damaged or worn prior to the end of the 5-year period, the DHSMV will replace it, upon application and surrender of the current plate, at no charge. Cab cards and validation stickers will continue to be issued annually, and the \$28 annual fee will apply to the issuance of an original or renewal validation sticker, instead of for the cost of the plate.

Electronic Rental Agreements (Section 10)***Present Situation***

Section 320.0605, F.S., provides that a person who rents or leases a vehicle is required to possess a true copy of rental or lease documentation for the motor vehicle at all times while the vehicle is being operated.⁵⁴ The documentation must include the following:

- Date of rental and time of exit from rental facility;
- Rental station identification;
- Rental agreement number;
- Rental vehicle identification number;
- Rental vehicle license plate number and state of registration;
- Vehicle's make, model, and color;
- Vehicle's mileage; and
- Authorized renter's name.

Effect of Proposed Changes

The bill authorizes a person to possess an *electronic copy* of the rental or lease documentation to be displayed upon the request of a law enforcement officer or an agent of the DHSMV. The bill provides that displaying the electronic copy does not constitute consent for the officer or agent to access any information on the device other than the displayed rental or lease documentation. The person who presents the device to the officer assumes liability for any resulting damage to the device.

The bill also removes that the rental or lease documentation must include the time of exit from the rental facility.

Discontinued Specialty License Plates (Sections 12 and 13)***Present Situation***

The DHSMV must discontinue the issuance of any approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months, or discontinue the sale of presale vouchers if the approved plate does not sell at least 1,000

⁵⁴ A person who cannot display such documentation upon request from an officer or agent of the DHSMV is guilty of a noncriminal traffic infraction, punishable as a nonmoving violation.

vouchers in 24 months.⁵⁵ The specialty license plate must also be discontinued if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.⁵⁶

The following specialty license plates have been discontinued by the DHSMV:

- The American Red Cross plate for failing to meet sales requirements;⁵⁷
- The Donate Organs Pass It On plate because the organization has closed;⁵⁸ and
- The St. Johns River plate and Hispanic Achievers plate for not meeting presale requirements.⁵⁹

Effect of Proposed Changes

Sections 12 and 13 amend ss. 320.08056 and 320.08058, F.S., respectively, to remove the American Red Cross plate, the Donate Organs Pass It On plate, the St. Johns River plate, and the Hispanic Achievers plate from law.

Purple Heart Motorcycle Plate (Section 15)

Present Situation

DHSMV currently offers multiple military special license plates available to certain military service members or veterans, but only offers two military motorcycle special plates: the Disabled Veteran motorcycle plate and the Paralyzed Vets of America motorcycle plate.⁶⁰

Purple Heart Medal

The Purple Heart is one of the oldest and most recognized American military medals, awarded to service members who were killed or wounded by enemy action. The Purple Heart differs from all other decorations in that an individual is not “recommended” for the decoration; rather he or she is entitled to it upon meeting specific criteria.⁶¹ The Purple Heart is ranked immediately behind the Bronze Star Medal and ahead of the Defense Meritorious Service Medal⁶² in order of precedence.

⁵⁵ Sections 320.08056(8)(a) and 320.08053(1)(b), F.S.; Florida collegiate plates are exempt from these requirements.

⁵⁶ Section 320.08056(8)(b), F.S.

⁵⁷ DHSMV Technical Advisory RS/TL16-009, *American Red Cross Specialty License Plate* (April 6, 2016), available at https://www.flhsmv.gov/dmv/bulletins/2016/ta_rstl16-009.pdf (last visited Mar. 22, 2017).

⁵⁸ DHSMV Technical Advisory RS/TL16-019, *Deauthorization of Donate Organs Pass It On Specialty License Plate* (July 15, 2016), available at https://www.flhsmv.gov/dmv/bulletins/2016/ta_rstl16-019.pdf (last visited Mar. 22, 2017).

⁵⁹ After 24 months in the presale process, the Hispanic Achievers plate had 26 registrations and the St. Johns River plate had 45 registrations. See DHSMV website, *Pre-Sale Specialty License Plate Vouchers* (June 30, 2016), <http://www.flhsmv.gov/specialtytags/PreSaleData.html> (last visited Mar. 22, 2017).

⁶⁰ For plate samples, see DHSMV, *Military License Plates*, available at <http://www.flhsmv.gov/specialtytags/miltags.html> (last visited Mar. 22, 2017).

⁶¹ Paragraph 1-14(c), Army Regulation 600-8-22.

⁶² The Defense Meritorious Service Medal is awarded in the name of the Secretary of Defense to members of the Armed Forces of the United States who, after 3 November 1977, distinguished themselves by noncombat meritorious achievement or service.

Effect of Proposed Changes

Section 15 creates s. 320.0875, F.S., to establish a Purple Heart motorcycle special license plate. A Florida resident who owns or leases a motorcycle that is not used for hire or commercial use, and who was awarded a Purple Heart may receive a Purple Heart motorcycle license plate upon:

- Application to the DHSMV;
- Payment of the motorcycle license tax⁶³; and
- Documentation acceptable to the DHSMV that he or she is a recipient of the Purple Heart medal.

The Purple Heart motorcycle plate shall be stamped with the words “Combat-wounded Veteran” followed by the serial number, the term “Purple Heart,” and the likeness of the Purple Heart medal.

Bronze Star License Plate (Section 16)***Present Situation***

Currently, there are 21 special military plates authorized in s. 320.089, F.S., available to military service members or veterans.⁶⁴ Special military plates authorized under this section are stamped with words consistent with the type of special plate issued, and include a likeness of the related campaign medal or badge, if applicable. Applicants for special military license plates authorized under this section are required to pay the annual license tax in s. 320.08, F.S., with the exception of certain disabled veterans who qualify for the Pearl Harbor, Purple Heart, or Prisoner of War plate, to whom such plates are issued at no cost.⁶⁵ With the exception of Woman Veteran plates, the first \$100,000 of revenue generated annually from the sale of special use military plates is deposited into the Grants and Donations Trust Fund under the Veterans’ Nursing Homes of Florida Act, as described in s. 296.38(2), F.S. Additional revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.⁶⁶ Proceeds from the Woman Veteran plates must be deposited into the Operations and Maintenance Trust Fund administered by the Department of Veterans’ Affairs to be used solely for the purpose of creating and implementing programs that benefit women veterans.⁶⁷

Bronze Star Medal

The Bronze Star Medal was established on February 4, 1944, to recognize those who served after December 6, 1941, in any capacity in or with the Armed Forces of the United States or a friendly

⁶³ Section 320.08(1)(a) and (c), F.S., provide the motorcycles have a flat license tax of \$10 plus a \$2.50 nonrefundable motorcycle education safety fee.

⁶⁴ The 21 military special plates currently offered in s. 320.089, F.S., include plates available for the following types of service: Veteran or Woman Veteran of the U.S. Armed Forces, World War II, Korean War, or Vietnam War Veteran, Navy Submariner, Active or retired National Guard member or U.S. Reservists, Pearl Harbor survivor, recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, Distinguished Flying Cross, or Purple Heart, former Prisoner of War, and service members or veterans of Operation Desert Shield, Desert Storm, Enduring Freedom, and Iraqi Freedom.

⁶⁵ Section 320.089(1)(c) and (2)(a), F.S.

⁶⁶ Section 320.089(1)(b), F.S.

⁶⁷ Section 320.089(1)(c), F.S.

foreign nation. The Bronze Star Medal is awarded to a person who distinguished himself or herself by heroic or meritorious service, not involving participation in aerial flight, in connection with military operations against an armed enemy; or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. Recipients of the Bronze Star Medal must be receiving imminent danger pay while serving in a geographic area authorized for special pay.⁶⁸ In order of precedence, the Department of Defense (DoD) places the Bronze Star Medal seventh amongst DoD wide military decorations and awards following the Distinguished Flying Cross and preceding the Purple Heart.⁶⁹

Effect of Proposed Changes

Section 16 creates a special military license plate for recipients of the Bronze Star Medal. The plate will be stamped with the words “Bronze Star” and a likeness of the Bronze Star Medal. To receive a Bronze Star special military license plate, the individual must submit an application for the plate to the DHSMV, provide proof that he or she is a Bronze Star Medal recipient, and pay the appropriate license tax as provided in s. 320.08, F.S. Revenue generated from the sale of the Bronze Star plate is deposited in the Grants and Donations Trust Fund and the State Home for Veterans Trust Fund, both of which are administered by the FDVA.

This section also makes technical changes to s. 320.089, F.S., to provide clarity.

Transporter License Plates (Section 17)

Present Situation

Section 320.133, F.S., allows the DHSMV to issue transporter license plates. Transporter plates are available for an applicant who, incidental to the conduct of the applicant’s business, engages in the transporting of unregistered motor vehicles, and who pays a license tax and provides proof of liability insurance coverage of at least \$100,000. A transporter plate is valid for 1 year, beginning January 1 to December 31, for a flat license tax of \$101.25.⁷⁰ To apply for a transporter plate, the business applicant certifies he understands the plate may only be used for motor vehicles in possession of the business that are being transported in the course of the business.⁷¹

Types of businesses that may require the use of transporter plates include:

- Motor vehicle detail shops;
- Van conversion shops or other shops installing specialized equipment on vehicles;
- Businesses that transport mobile homes and recreational vehicles;
- Licensed repossessioners; and
- Businesses that deliver unregistered vehicles (Drive away services).

⁶⁸ Department of the Army, *Military Awards*, Army Regulation 600-8-22 (June 25, 2015).

⁶⁹ Department of Defense, *Manual of Military Decorations and Awards: DoD Service Awards – Campaign, Expeditionary, and Service Medals*, Manual No. 1348.33, Vol. 2 (May 15, 2015). The order of precedence for military awards varies by branch of service.

⁷⁰ Sections 320.08(15) and 320.133(3), F.S.

⁷¹ See DHSMV, *Application for Transporter License Plates* (May 2011), available at <https://www.flhsmv.gov/pdf/forms/83065.pdf> (last visited Feb. 10, 2017).

Currently, there are 8,332 transporter license plates issued by the state, and approximately 4,618 businesses and individuals who have these plates issued to them.⁷² There is no requirement for the business applying for the plate to prove it is engaged in transporting unregistered vehicles. The DHSMV has discovered businesses are using transporter license plates on company vehicles rather than on vehicles being transported for the business. According to DHSMV, it has little authority under current law to inquire as to whether the license plates are being used appropriately by applicants.⁷³

Effect of Proposed Changes

Section 17 makes numerous changes to s. 320.133, F.S., concerning transporter license plates, including defining a “transporter license plate eligible business,” requiring additional business information from applicants for transporter licenses, and adding penalties for improper use of transporter license plates.

This section also requires applicants for transporter license plates to provide proof satisfactory to the DHSMV that the business is a “transporter license plate eligible business,” which is defined as a business engaged in the limited operation of unregistered motor vehicles or a reposessor who contracts with lending institutions to repossess or recover motor vehicles or mobile homes. Additionally, the application for a transporter license plate must include:

- The legal name of the person or persons applying for the license plate;
- The name of the business, and principal or principals of the business;
- A description of the exact physical location of the place of business within the state;
- Proof of a garage liability insurance policy or a business automobile policy in the amount of \$100,000;
- Proof that the business is registered with the Division of Corporations of the Department of State to conduct business in the state; and
- A description of the business processes the business conducts that requires a need for a transporter license plate.

The business certificate of insurance must also indicate the number of transporter license plates reported to the insurance company, which will be the maximum number the DHSMV will issue to the applicant. The applicant is required to maintain such coverage for the entire transporter license plate registration period. The applicant is also required to maintain for two years, records of use for each transporter license plate. Such records must be at the business’s location and open to inspection by the DHSMV or any law enforcement agency during reasonable business hours.

This section clarifies that the transporter license plate is only valid for use on an unregistered motor vehicle being transported in the course of the transporter’s business and cannot be used on any motor vehicle that would require registration by the business. The DHSMV has authority to cancel any transporter license plate.

Finally, the section adds penalties for the improper use of transporter license plates. Specifically:

⁷² DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

⁷³ *Id.*

- A person who sells or unlawfully possesses, distributes, or brokers a transporter license plate to be attached to any vehicle commits a second-degree misdemeanor⁷⁴, and the plate is subject to removal;
- A person who fails to maintain true and accurate records of transporter license plate usage commits a second-degree misdemeanor⁷⁵, all transporter plates issued to the person may be subject to cancellation, and the person is disqualified from future transporter license plate issuance;
- A person who operates a motor vehicle with a transporter license plate attached who fails to provide the registration issued for the transporter license plate and proof of required insurance commits a second-degree misdemeanor⁷⁶, and the plate is subject to removal. This penalty does not apply to a person who contracts with dealers and auctions to transport motor vehicles; and
- A person who *knowingly and willfully* sells or unlawfully possesses, distributes, or brokers a transporter plate to avoid registering a vehicle that requires registration commits a first-degree misdemeanor⁷⁷, and all transporter plates issued to the person's business are canceled and must be returned to the DHSMV;

FHP Law Enforcement Training Reimbursement (Section 18)

Present Situation

Section 321.25, F.S., authorizes the DHSMV “to provide for the training of law enforcement officials and individuals in matters relating to the duties, functions, and powers of the Florida Highway Patrol...” The DHSMV is authorized to charge a fee for providing authorized training, as well as tuition, lodging, and meals. New FHP troopers receive 28 to 29 weeks of paid Law Enforcement Training at the FHP Training Academy. During this paid training, meals, lodging, equipment, and study materials are provided to FHP Academy trainees at no cost to the trainee.⁷⁸ The DHSMV estimates that the cost of training and other course expenses to the DHSMV is approximately \$12,386 per trooper trainee.⁷⁹

In Florida, if an officer trainee who attends an approved training program at the expense of an employing agency terminates employment with such agency within two years after graduation from the basic recruit training program, he or she may be required to reimburse the employing agency for the full cost of tuition and other expenses.⁸⁰ Section 943.16, F.S., allows an employing agency to institute a civil action to collect these expenses if it is not reimbursed, provided that the trainee signed acknowledgement of this requirement. Trainees are not required to reimburse the employing agency if they resign their law enforcement certification upon terminating employment. Additionally, an employing agency may waive the reimbursement

⁷⁴ The second-degree misdemeanor is punishable as provided in ss. 775.082 or 775.083, F.S., which is a definite term of imprisonment not exceeding 60 days or a fine of no more than \$500.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ The first-degree misdemeanor is punishable as provided in ss. 775.82 or 775.083, which is a definite term of imprisonment not exceeding one year or a fine of no more than \$1,000.

⁷⁸ FHP, *Be A Trooper- Requirements- Benefits*, available at <http://beatrooper.com/requirements/> (last visited Feb. 10, 2017).

⁷⁹ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

⁸⁰ Section 943.16, F.S.

requirement in part or in full for a trainee who terminates employment due to hardship or extenuating circumstances.⁸¹

Since 2012, 86 FHP members terminated employment with the FHP within two years of completing training. According to the DHSMV, the FHP only pursues reimbursement if a trooper leaves within the two years to secure employment with another law enforcement agency.⁸² An additional 37 FHP members terminated employment within the third year of completing FHP training.

Effect of Proposed Changes

Section 19 amends s. 321.21, F.S., relating specifically to FHP training, to increase the employment period length to which the reimbursement requirement applies from two years to three years. If an FHP trainee terminates employment with FHP prior to completing three years of service, the DHSMV may require the trainee to reimburse the cost of the FHP training tuition and other course expenses.

The amended section retains that the DHSMV may institute a civil action to collect tuition and other related expenses if it is not reimbursed, provided the trainee signed written acknowledgement of the (3-year) requirement. Additionally, the DHSMV retains authority to waive the reimbursement requirement in part or in full if the trainee terminates employment due to hardship or extenuating circumstances. However, the amendment removes the ability of FHP trainees to resign their law enforcement certification upon termination in order to avoid having to reimburse the DHSMV for the cost of tuition and other course expenses.

“D” Designation on ID card for Persons with PTSD or TBI (Section 21)

Present Situation

DHSMV may issue an identification card to any person who is 5 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit⁸³ upon completion of an application and payment of a \$25 fee.⁸⁴

Section 320.051(8)(e), F.S., provides that upon request by a person who has a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, DHSMV issue an identification card exhibiting a capital “D” for the person, child, or ward if the person or the parent or guardian of the child or ward submits:

- Payment of an additional \$1 fee; and
- Proof acceptable to DHSMV of a diagnosis by a licensed physician of a developmental disability.⁸⁵

⁸¹ *Id.*

⁸² DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

⁸³ Disabled parking permits are provided under s. 320.0848, F.S.

⁸⁴ Section 322.051, F.S.

⁸⁵ Section 393.063(12), F.S., defines “developmental disability” as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

The above provision applies upon implementation of new designs for the driver license and identification card by the DHSMV.⁸⁶

Effect of Proposed Changes

Section 21 amends s. 322.051(8)(e)1., F.S., adding persons with post-traumatic stress disorder (PTSD)⁸⁷ or traumatic brain injury (TBI)⁸⁸ to those individuals who may receive the “D” designation on his or her identification card. This also applies to a parent or guardian’s request for a child or ward.

Truancy Reporting (Section 23)

Present Situation

A minor is not eligible for driving privileges unless he or she⁸⁹:

- Is enrolled in a public school, nonpublic school, or home education and satisfies relevant attendance requirements;
- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements; or
- Has been issued a certificate of exemption or hardship waiver under.

Subsection 322.091(5), F.S., requires the DHSMV to submit a report quarterly to each school district containing the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended under this section.

Effect of Proposed Changes

Section 23 amends subsection 322.091(5), F.S., to remove obsolete language. According to the DHSMV, access to this report is available to school boards electronically on an accessible website.⁹⁰ The report via the website is updated in real-time whenever a new student is added.

Tax Collector Fee Distribution (Sections 24 and 26)

Present Situation

In 2010, the Florida Legislature required all driver license issuance services be transferred to tax collectors who are constitutional officers under s. 1(d), Art. VIII of the State Constitution by

⁸⁶ Section 3 of Ch. 2016-175, L.O.F.

⁸⁷ PTSD is defined as a mental health condition that is triggered by a terrifying event. Symptoms include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event. See Mayo Clinic website, <http://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/home/ovc-20308548> (last visited Mar. 23, 2017).

⁸⁸ TBI occurs when an external mechanical force causes brain dysfunction; usually from a violent blow or jolt to the head or body. See Mayo Clinic website, <http://www.mayoclinic.org/diseases-conditions/traumatic-brain-injury/basics/definition/con-20029302> (last visited Mar. 23, 2017).

⁸⁹ Section 322.091, F.S.

⁹⁰ Meeting with the DHSMV and Senate Transportation Committee Staff (Jan. 23, 2017).

June 30, 2015.⁹¹ As part of that transfer, tax collectors retain portions of specified fees when processing certain driver license services. Additionally, tax collectors charge a \$6.25 service fee for completing driver license services.⁹²

Tax collectors are not currently able to retain portions of fees for some services that the tax collectors are regularly performing. For example, an applicant who fails an initial driving knowledge or skills test is required to pay a \$10 or \$20 fee, respectively, to be issued a subsequent test. These fees are deposited into the Highway Safety Operating Trust Fund (HSOTF), regardless of whether the DHSMV or the tax collectors administered the exam.⁹³

Similarly, service fees for license reinstatements collected pursuant to s. 322.21(8), F.S., are deposited into the General Revenue Fund and HSOTF, regardless of whether the reinstatement was conducted by the DHSMV or tax collectors. Of the \$45 service fee to reinstate a driver license suspension, \$15 is deposited in the General Revenue Fund and \$30 in the HSOTF. Of the \$75 service fee to reinstate a driver license revocation or CDL disqualification, \$35 is deposited in the General Revenue Fund and \$40 in the HSOTF.

Effect of Proposed Changes

Sections 24 and 26 amend ss. 322.12 and 322.21 F.S., respectively, to require, for subsequent driver license initial knowledge and skills tests, that the tax collector retain the \$10 or \$20 fee for administering tests to applicants. The bill also requires the tax collectors to retain a portion of service fees when processing driver license reinstatements. If the reinstatement is processed by the tax collector:

- Of the \$45 fee for suspension reinstatement, \$15 shall be retained by the tax collector and \$15 shall be deposited into the HSOTF; and
- Of the \$75 fee for revocation or disqualification reinstatement, \$20 shall be retained by the tax collector, \$20 shall be deposited into the HSOTF, and \$35 shall be deposited into the General Revenue Fund.

Stolen Identification Cards (Section 25)

Present Situation

Section 322.17, F.S., provides that in the event that an instruction permit or driver license is stolen from an individual, upon proof of identity and proof satisfactory to the DHSMV that such permit or license was stolen (generally, with copy of a police report), a replacement permit or license will be issued at no cost to the individual.

Replacement driver licenses and identification cards cost \$25. According to the DHSMV, in Fiscal Year 2015-2016, individuals reported approximately 7,123 stolen identification cards to the DHSMV.⁹⁴

⁹¹ Chapter 2010-163, Laws of Florida and s. 322.02(1), F.S.

⁹² Section 322.135(1)(c), F.S.

⁹³ Section 322.12(1), F.S.

⁹⁴ DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

Effect of Proposed Changes

Section 25 amends s. 322.17, F.S., to include that identification cards shall be replaced at no cost to an individual who provides proof of identity and proof satisfactory to the DHSMV that the card was stolen.

Specialty Driver License or Identification Cards (Section 26)***Present Situation***

Section 322.1415, F.S., provided authority for DHSMV to issue specialty driver licenses and identification cards recognizing, at a minimum, Florida universities, Florida professional sports teams, and all branches of the United States Armed Forces. Additionally, s. 322.1415(5), F.S. provided that the section was repealed effective August 31, 2016.

The DHSMV is not currently authorized to offer expedited shipping services for renewal or replacement driver licenses or identification cards. The fastest way to receive a renewal or replacement driver license or identification card is to go in-person to a Florida driver license office. However, for individuals out-of-state or who cannot get to a driver license office, renewals and replacement driver licenses or identification cards may be requested using a convenience service⁹⁵, including the DHSMV's virtual office⁹⁶.

According to the DHSMV, it can take seven to fourteen days to receive a renewal or replacement driver license or identification card after it is ordered from the DHSMV's virtual office.

Effect of Proposed Changes

Section 26 amends s. 322.21, F.S., to remove an obsolete reference to specialty driver license and identification card costs from s. 322.21, F.S.

This section also provides that an applicant for a renewal or replacement driver license or identification card, when using a convenience service, will have the option to request expedited shipping. If the applicant chooses expedited shipping, the DHSMV shall issue the license or identification card within five working days of receiving the application and will ship the license or card using an expedited mail service. The DHSMV may charge a fee for the expedited shipping that does not exceed the cost of the expedited mail service. This shipping fee is in addition to any fee that would have been charged for the license or card, excluding the expedited shipping. The DHSMV shall deposit expedited shipping fees into the Highway Safety Operating Trust Fund.

Amending Cross-References (Sections 28-33)

Sections 28-33 amends numerous cross-references to reflect changes made by the bill.

⁹⁵ Section 322.01(10), F.S., defines "convenience service" as "any means whereby an individual conducts a transaction with the department other than in person."

⁹⁶ Available at <https://services.flhsmv.gov/virtualoffice/Lobby.aspx> (last visited Feb. 13, 2017).

Effective Date (Section 34)

This bill takes effect October 1, 2017.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The Revenue Estimating Conference (REC) reviewed provisions in the bill on March 10, 2017.⁹⁷ The REC estimates that replacing stolen identification cards at no charge to a customer (section 10 of the bill) will reduce revenues deposited into the General Revenue Fund by an insignificant amount until Fiscal Years 2020 through 2022. Beginning 2020, the lost revenues of are anticipated to be \$100,000 annually.

The REC estimates that allowing local tax collectors to retain fees or portions of fees for administering subsequent driver license examinations or reinstating licenses (sections 9 and 11) will shift approximately \$5 million of revenues from the HSOTF and \$400,000 of revenues from the General Revenue Fund annually to the local tax collectors.

Additionally, the REC estimates that authorizing expedited shipping fees for driver licenses and identification cards (section 11) will have an indeterminate impact in revenues to the extent that expedited shipping is requested.

B. Private Sector Impact:

The bill may have a positive impact for individuals who are issued a free replacement identification card to replace a stolen card (section 25), as well as CMV operators who may replace a damaged apportioned license plate at no charge (sections 9 and 11). In addition, operators of autocycles (sections 20 and 24) will not be required to obtain a motorcycle license or endorsement license, or to complete a motorcycle safety course and

⁹⁷ Office of Economic and Demographic Research, Revenue Estimating Conference, *Highway Safety Fees – HB 545* (Mar. 10, 2017), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0310.pdf at p. 22-30 (last visited Mar. 15, 2017).

a motorcycle knowledge and skills test currently required to obtain such a license or endorsement.

However, the bill may have a negative impact on individuals or businesses who misuse transporter license plates due to the added penalties for their misuse (section 17)).

The bill will have an indeterminate impact on the CMV industry as a result of changes made to CMV requirements within the bill (sections 1, 5, and 27).

C. Government Sector Impact:

The bill makes changes to address compliance issues with federal laws relating to commercial motor vehicles (sections 1, 5, and 27). According to the DHSMV, if Florida fails to comply with FMCSA compatibility requirements, Florida may experience a reduction of up to four percent of Federal-aid highway funds following the first year of noncompliance and up to eight percent for subsequent years.⁹⁸ Noncompliance may also affect the potential award of future grants.

To the extent that FHP troopers terminate employment for employment with another agency between their second and third year of service, the DHSMV may receive reimbursement for training costs from the individual (section 18). The DHSMV estimates that the cost of training and other course expenses to the DHSMV is approximately \$12,386 per trooper trainee.⁹⁹

The DHSMV will likely incur programming costs associated with changes made by the bill, as well as production costs to create Bronze Star license plates (section 16) and Purple Heart motorcycle plates (section 15).

The bill is intended to address a broad range of federal compliance, customer service and administrative efficiency issues; however, these changes have various indeterminate impacts to revenues and expenditures and the total fiscal impact of the bill on the government sector is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.2397, 316.2398, 316.302, 316.3025, 316.614, 320.01, 320.02, 320.06, 320.0605, 320.0607, 320.08056,

⁹⁸ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

⁹⁹ *Id.*

320.08058, 320.08068, 320.089, 320.133, 321.25, 322.01, 322.03, 322.051, 322.08, 322.091, 322.12, 322.17, 322.21, and 322.61.

This bill creates section 320.0875 of the Florida Statutes.

This bill amends the following sections of the Florida Statutes to conform cross-references: 212.05, 316.303, 316.545, 316.613, 320.08, and 655.960.

IX. Additional Information:

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

CS by Transportation on March 22, 2017:

The CS adds several issues to the bill. Specifically, the CS:

- Creates a definition for an autocycle, requires occupants of autocycles to wear safety belts, and exempts drivers of autocycles from being required to have a motorcycle endorsement or motorcycles license, or from completing motorcycle knowledge and skills testing;
- Allows volunteer firefighters to use red and white, in addition to red, warning signals;
- Allows a person driving a rental vehicle who is stopped by a law enforcement officer or agent of the DHSMV to show an electronic copy of a rental agreement;
- Changes references to the organization “Prevent Blindness” to “Preserve Vision”;
- Creates a Purple Heart motorcycle special license plate;
- Creates a Bronze Star license plate;
- Removes specialty license plates from statute that have been discontinued by the DHSMV; and
- Allows a person diagnosed with PTSD or TBI to be eligible to receive a “D” designation on his or her ID card.

The CS modifies changes to the bill sections on the Issuance of Apportionable Vehicle Plates. The CS removes language from current law indicating that the cab card denotes the declared gross vehicle weight *for each jurisdiction in which the vehicle is authorized to operate*. The CS also changes that a \$28 annual fee is for an original and a renewed validation sticker, instead of for the annual cab card.

B. Amendments:

None.

By the Committee on Transportation; and Senators Gainer and Rouson

596-02740-17

2017784c1

1 A bill to be entitled
 2 An act relating to the Department of Highway Safety
 3 and Motor Vehicles; amending s. 316.003, F.S.;
 4 defining the term "autocycle"; redefining the term
 5 "motorcycle"; conforming a cross-reference; amending
 6 ss. 316.2397 and 316.2398, F.S.; prohibiting vehicles
 7 or equipment from showing or displaying red and white
 8 lights while being driven or moved; authorizing
 9 firefighters to use or display red and white lights
 10 under certain circumstances; authorizing active
 11 volunteer firefighters to display red and white
 12 warning signals under certain circumstances; amending
 13 s. 316.302, F.S.; revising provisions relating to
 14 federal regulations to which owners and drivers of
 15 commercial motor vehicles are subject; terminating the
 16 maximum amount of a civil penalty for falsification of
 17 information on certain time records; deleting the
 18 requirement that a motor carrier maintain
 19 documentation of a driver's driving times throughout a
 20 duty period if the driver is not released from duty
 21 within a specified period; providing an exemption from
 22 specified rules and regulations for a person who
 23 operates a commercial motor vehicle with a declared
 24 gross vehicle weight, gross vehicle weight rating, and
 25 gross combined weight rating of less than a specified
 26 amount under certain circumstances; amending s.
 27 316.3025, F.S.; conforming provisions to changes made
 28 by the act; amending s. 316.614, F.S.; redefining the
 29 term "motor vehicle"; prohibiting a person from

Page 1 of 55

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596-02740-17

2017784c1

30 operating an autocycle unless certain safety belt or
 31 child restraint device requirements are met; amending
 32 s. 320.01, F.S.; redefining the term "apportionable
 33 vehicle"; redefining the term "motorcycle"; amending
 34 s. 320.02, F.S.; requiring an application form for
 35 motor vehicle registration to include language
 36 authorizing a voluntary contribution to be distributed
 37 to Preserve Vision Florida, rather than to Prevent
 38 Blindness Florida; amending s. 320.06, F.S.; providing
 39 for future repeal of issuance of a certain annual
 40 license plate and cab card to a vehicle that has an
 41 apportioned registration; providing requirements,
 42 beginning on a specified date, for license plates, cab
 43 cards, and validation stickers for vehicles registered
 44 in accordance with the International Registration
 45 Plan; authorizing a worn or damaged license plate to
 46 be replaced at no charge under certain circumstances;
 47 amending s. 320.0605, F.S.; authorizing presentation
 48 of electronic documentation of certain information to
 49 a law enforcement officer or agent of the department;
 50 providing construction; providing liability; revising
 51 information required in such documentation; amending
 52 s. 320.0607, F.S.; providing an exemption, beginning
 53 on a specified date, of a certain fee for vehicles
 54 registered under the International Registration Plan;
 55 amending s. 320.08056, F.S.; deleting the American Red
 56 Cross, Donate Organs-Pass It On, St. Johns River, and
 57 Hispanic Achievers license plates; conforming cross-
 58 references; repealing s. 320.08058(31), (57), (69),

Page 2 of 55

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596-02740-17

2017784c1

59 and (70), F.S., relating to the American Red Cross,
 60 Donate Organs-Pass It On, St. Johns River, and
 61 Hispanic Achievers license plates, respectively;
 62 amending s. 320.08068, F.S.; requiring The Able Trust
 63 to distribute a specified percentage of annual use
 64 fees from motorcycle specialty license plates to
 65 Preserve Vision Florida, rather than to Prevent
 66 Blindness Florida; creating s. 320.0875, F.S.;
 67 providing for a motorcycle special license plate to be
 68 issued to a recipient of the Purple Heart; providing
 69 requirements for the plate; amending s. 320.089, F.S.;
 70 providing for a special license plate to be issued to
 71 a recipient of the Bronze Star; making technical
 72 changes; amending s. 320.133, F.S.; defining the term
 73 "transporter license plate eligible business";
 74 providing that a person is not eligible to purchase or
 75 renew a transporter license plate unless he or she
 76 provides certain proof that his or her business is a
 77 transporter license plate eligible business; providing
 78 application and insurance requirements for
 79 qualification as a transporter license plate eligible
 80 business; authorizing the department to issue a
 81 transporter license plate to an applicant who is not a
 82 licensed dealer and is qualified as a transporter
 83 license plate eligible business, under certain
 84 circumstances; providing that a transporter license
 85 plate is valid only for use on an unregistered motor
 86 vehicle in the possession of the transporter, subject
 87 to certain requirements; providing a criminal penalty

596-02740-17

2017784c1

88 for a person who sells or unlawfully possesses,
 89 distributes, or brokers a transporter license plate to
 90 be attached to any vehicle; providing that transporter
 91 license plates are subject to cancellation by the
 92 department; providing a criminal penalty and
 93 disqualification from transporter license plate usage
 94 for a person who knowingly and willfully sells or
 95 unlawfully possesses, distributes, or brokers a
 96 transporter license plate to avoid registering a
 97 vehicle requiring registration, subject to certain
 98 requirements; providing recordkeeping requirements for
 99 a transporter license plate eligible business;
 100 providing a criminal penalty, cancellation of
 101 transporter license plates, and disqualification from
 102 future issuance of the plates for a violation of such
 103 recordkeeping requirements; requiring a transporter
 104 license plate issued under this section to be
 105 accompanied by registration and proof of insurance
 106 when attached to a motor vehicle; providing a criminal
 107 penalty and removal of the license plate for a person
 108 who fails to provide such documentation; providing an
 109 exemption to persons who contract with dealers and
 110 auctions to transport motor vehicles; conforming
 111 provisions to changes made by the act; providing that
 112 an initial registration or renewal issued under this
 113 section is valid for a specified period; requiring a
 114 license plate attached to a motor vehicle in violation
 115 of specified provision to be removed by a law
 116 enforcement officer and surrendered to the department

596-02740-17

2017784c1

117 by the law enforcement agency for cancellation;
 118 amending s. 321.25, F.S.; providing for reimbursement
 119 to the department of tuition and other course expenses
 120 for certain training under certain circumstances;
 121 defining the term "other course expenses"; authorizing
 122 the department to institute a civil action under
 123 certain circumstances; authorizing the department to
 124 waive a person's requirement of reimbursement when the
 125 person terminates employment due to hardship or
 126 extenuating circumstances; amending s. 322.01, F.S.;
 127 conforming provisions to changes made by the act;
 128 amending s. 322.03, F.S.; authorizing a person to
 129 operate an autocycle without a motorcycle endorsement;
 130 amending s. 322.051, F.S.; revising eligibility for a
 131 "D" designation on an identification card to include
 132 posttraumatic stress disorder or traumatic brain
 133 injury; amending s. 322.08, F.S.; requiring an
 134 application form for an original, renewal, or
 135 replacement driver license or identification card to
 136 include language authorizing a voluntary contribution
 137 to Preserve Vision Florida, rather than to Prevent
 138 Blindness Florida; amending s. 322.091, F.S.;
 139 requiring the department to make available, upon
 140 request, a report to each school district of certain
 141 information for each student whose driving privileges
 142 have been suspended under this section; amending s.
 143 322.12, F.S.; requiring the tax collector to retain
 144 specified fees if a subsequent knowledge or skills
 145 test is administered by the tax collector; exempting

596-02740-17

2017784c1

146 the operation of an autocycle from certain examination
 147 requirements for licenses to operate motorcycles;
 148 amending s. 322.17, F.S.; providing for replacement of
 149 a stolen identification card at no charge, subject to
 150 certain requirements; amending s. 322.21, F.S.;
 151 deleting obsolete provisions; deleting a fee for
 152 certain specialty driver licenses or identification
 153 cards; providing disposition of specified fees for
 154 reinstatement of a driver license following a
 155 suspension, revocation, or disqualification when the
 156 reinstatement is processed by the department or the
 157 tax collector; requiring an applicant who submits an
 158 application for a renewal or replacement driver
 159 license or identification card to the department using
 160 a convenience service to be provided with an option
 161 for expedited shipping, subject to certain
 162 requirements; requiring a fee to be charged for the
 163 expedited shipping option, subject to certain
 164 requirements; providing for disposition of such fee;
 165 amending s. 322.61, F.S.; adding violations for
 166 texting or using a handheld mobile telephone while
 167 driving a commercial motor vehicle as specified
 168 offenses that, in certain circumstances, result in
 169 disqualification from operating a commercial motor
 170 vehicle for a specified period; amending ss. 212.05,
 171 316.303, 316.545, 316.613, 320.08, and 655.960, F.S.;
 172 conforming cross-references; providing an effective
 173 date.
 174

596-02740-17

2017784c1

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

Section 1. Present subsections (2) through (97) of section 316.003, Florida Statutes, are redesignated as subsections (3) through (98), respectively, a new subsection (2) is added to that section, and present subsections (41) and (55) of that section are amended, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(2) AUTOCYCLE.—A three-wheel motorcycle that has two wheels in the front and one wheel in the back, is equipped with a roll cage or roll hoops, safety belts for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it and is manufactured by a National Highway Traffic Safety Administration registered manufacturer in accordance with the applicable federal motorcycle safety standards under 49 C.F.R. part 571.

~~(42)(41)~~ MOTORCYCLE.—Any motor vehicle that has having a seat or saddle for the use of the rider which is and designed to travel on not more than three wheels in contact with the ground, including an autocycle. The term does not include a tractor, a moped, or a vehicle in which the operator is enclosed by a cabin unless the vehicle meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle but excluding a tractor or a moped.

~~(56)(55)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (78)(b) (77)(b), any privately owned way

596-02740-17

2017784c1

or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Section 2. Subsections (1) and (3) of section 316.2397, Florida Statutes, are amended to read:

316.2397 Certain lights prohibited; exceptions.—

(1) A ~~No~~ person may not ~~shall~~ drive or move or cause to be moved any vehicle or equipment upon any highway within this state with a ~~any~~ lamp or device thereon showing or displaying a red, red and white, or blue light visible from directly in front thereof except for certain vehicles ~~hereinafter~~ provided in this section.

(3) Vehicles of the fire department and fire patrol, including vehicles of volunteer firefighters as permitted under s. 316.2398, may show or display red, or red and white, lights. Vehicles of medical staff physicians or technicians of medical facilities licensed by the state as authorized under s. 316.2398, ambulances as authorized under this chapter, and buses and taxicabs as authorized under s. 316.2399 may show or display red lights. Vehicles of the fire department, fire patrol, police vehicles, and such ambulances and emergency vehicles of municipal and county departments, public service corporations operated by private corporations, the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the Department of Transportation, the Department of Agriculture and Consumer Services, and the Department of Corrections as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any county may operate emergency lights and sirens in

596-02740-17

2017784c1

an emergency. Wreckers, mosquito control fog and spray vehicles, and emergency vehicles of governmental departments or public service corporations may show or display amber lights when in actual operation or when a hazard exists provided they are not used going to and from the scene of operation or hazard without specific authorization of a law enforcement officer or law enforcement agency. Wreckers must use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and may use such lights while towing a vehicle on wheel lifts, slings, or under reach if the operator of the wrecker deems such lights necessary. A flatbed, car carrier, or rollback may not use amber rotating or flashing lights when hauling a vehicle on the bed unless it creates a hazard to other motorists because of protruding objects. Further, escort vehicles may show or display amber lights when in the actual process of escorting overdimensioned equipment, material, or buildings as authorized by law. Vehicles owned or leased by private security agencies may show or display green and amber lights, with either color being no greater than 50 percent of the lights displayed, while the security personnel are engaged in security duties on private or public property.

Section 3. Section 316.2398, Florida Statutes, is amended to read:

316.2398 Display or use of red, or red and white, warning signals; motor vehicles of volunteer firefighters or medical staff.—

(1) A privately owned vehicle belonging to an active firefighter member of a regularly organized volunteer firefighting company or association, while en route to the fire

596-02740-17

2017784c1

station for the purpose of proceeding to the scene of a fire or other emergency or while en route to the scene of a fire or other emergency in the line of duty as an active firefighter member of a regularly organized firefighting company or association, may display or use red, or red and white, warning signals. ~~or~~ A privately owned vehicle belonging to a medical staff physician or technician of a medical facility licensed by the state, while responding to an emergency in the line of duty, may display or use red warning signals. Warning signals must be visible from the front and from the rear of such vehicle, subject to the following restrictions and conditions:

(a) No more than two red, or red and white, warning signals may be displayed.

(b) No inscription of any kind may appear across the face of the lens of the red, or red and white, warning signal.

(c) In order for an active volunteer firefighter to display such red, or red and white, warning signals on his or her vehicle, the volunteer firefighter must first secure a written permit from the chief executive officers of the firefighting organization to use the red, or red and white, warning signals, and this permit must be carried by the volunteer firefighter at all times while the red, or red and white, warning signals are displayed.

(2) ~~A It is unlawful for any~~ person who is not an active firefighter member of a regularly organized volunteer firefighting company or association or a physician or technician of the medical staff of a medical facility licensed by the state may not ~~to~~ display on any motor vehicle owned by him or her, at any time, any red, or red and white, warning signals as

596-02740-17

2017784c1

described in subsection (1).

(3) ~~It is unlawful for~~ An active volunteer firefighter may not ~~to~~ operate any red, or red and white, warning signals as authorized in subsection (1), except while en route to the fire station for the purpose of proceeding to the scene of a fire or other emergency, or while at or en route to the scene of a fire or other emergency, in the line of duty.

(4) ~~It is unlawful for~~ A physician or technician of the medical staff of a medical facility may not ~~to~~ operate any red warning signals as authorized in subsection (1), except when responding to an emergency in the line of duty.

(5) A violation of this section is a nonmoving violation, punishable as provided in chapter 318. In addition, a any volunteer firefighter who violates this section shall be dismissed from membership in the firefighting organization by the chief executive officers thereof.

Section 4. Subsection (1) and paragraphs (a), (c), (d), and (f) of subsection (2) of section 316.302, Florida Statutes, are amended to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(1) Except as otherwise provided in subsection (3):

(a) All owners and drivers of commercial motor vehicles that are operated on the public highways of this state while engaged in interstate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397.

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations

596-02740-17

2017784c1

contained in 49 C.F.R. parts 382, 383, 385, and 390-397, ~~with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus,~~ as such rules and regulations existed on December 31, 2016 ~~2012~~.

(c) The emergency exceptions provided by 49 C.F.R. s. 392.82 also apply to communications by utility drivers and utility contractor drivers during a Level 1 activation of the State Emergency Operations Center, as provided in the Florida Comprehensive Emergency Management plan, or during a state of emergency declared by executive order or proclamation of the Governor.

(d) Except as provided in ~~s. 316.215(5), and except as provided in~~ s. 316.228 for rear overhang lighting and flagging requirements for intrastate operations, the requirements of this section supersede all other safety requirements of this chapter for commercial motor vehicles.

(2) (a) A person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 need not comply with 49 C.F.R. ss. 391.11(b) (1) and 395.3 ~~395.3(a) and (b)~~.

(c) Except as provided in 49 C.F.R. s. 395.1, a person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 may not drive after having been on duty more than 70 hours in any period of 7 consecutive days or more than 80 hours in any period of 8 consecutive days if the motor carrier operates every day of the week. Thirty-four consecutive hours off duty shall constitute

596-02740-17

2017784c1

349 the end of any such period of 7 or 8 consecutive days. This
 350 weekly limit does not apply to a person who operates a
 351 commercial motor vehicle solely within this state while
 352 transporting, during harvest periods, any unprocessed
 353 agricultural products or unprocessed food or fiber that is
 354 subject to seasonal harvesting from place of harvest to the
 355 first place of processing or storage or from place of harvest
 356 directly to market or while transporting livestock, livestock
 357 feed, or farm supplies directly related to growing or harvesting
 358 agricultural products. Upon request of the Department of Highway
 359 Safety and Motor Vehicles, motor carriers shall furnish time
 360 records or other written verification to that department so that
 361 the Department of Highway Safety and Motor Vehicles can
 362 determine compliance with this subsection. These time records
 363 must be furnished to the Department of Highway Safety and Motor
 364 Vehicles within 2 days after receipt of that department's
 365 request. Falsification of such information is subject to a civil
 366 penalty ~~not to exceed \$100. The provisions of~~ This paragraph
 367 ~~does de~~ not apply to operators of farm labor vehicles operated
 368 during a state of emergency declared by the Governor or operated
 369 pursuant to s. 570.07(21), and ~~does de~~ not apply to drivers of
 370 utility service vehicles as defined in 49 C.F.R. s. 395.2.

371 (d) A person who operates a commercial motor vehicle solely
 372 in intrastate commerce not transporting any hazardous material
 373 in amounts that require placarding pursuant to 49 C.F.R. part
 374 172 within a 150 air-mile radius of the location where the
 375 vehicle is based need not comply with 49 C.F.R. s. 395.8, if the
 376 requirements of 49 C.F.R. s. 395.1(e)(1)(ii), (e)(1)(iii)(A) and
 377 (C), 395.1(e)(1)(iii) and (e)(1)(v) are met. ~~If a driver is not~~

596-02740-17

2017784c1

378 ~~released from duty within 12 hours after the driver arrives for~~
 379 ~~duty, the motor carrier must maintain documentation of the~~
 380 ~~driver's driving times throughout the duty period.~~

381 (f) A person who operates a commercial motor vehicle having
 382 a ~~declared~~ gross vehicle weight, gross vehicle weight rating,
 383 and gross combined weight rating of less than 26,001 pounds
 384 solely in intrastate commerce and who is not transporting
 385 hazardous materials in amounts that require placarding pursuant
 386 to 49 C.F.R. part 172, ~~or who is transporting petroleum products~~
 387 ~~as defined in s. 376.301,~~ is exempt from subsection (1).
 388 However, such person must comply with 49 C.F.R. parts 382, 392,
 389 and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

390 Section 5. Paragraph (a) of subsection (6) of section
 391 316.3025, Florida Statutes, is amended to read:

392 316.3025 Penalties.—

393 (6)(a) A driver who violates 49 C.F.R. s. 392.80, which
 394 prohibits texting while operating a commercial motor vehicle, or
 395 49 C.F.R. s. 392.82, which prohibits using a handheld mobile
 396 telephone while operating a commercial motor vehicle, may be
 397 assessed a civil penalty ~~and commercial driver license~~
 398 ~~disqualification~~ as follows:

399 1. First violation: \$500.

400 2. Second violation: \$1,000 ~~and a 60-day commercial driver~~
 401 ~~license disqualification pursuant to 49 C.F.R. part 383.~~

402 3. Third and subsequent violations: \$2,750 ~~and a 120-day~~
 403 ~~commercial driver license disqualification pursuant to 49 C.F.R.~~
 404 ~~part 383.~~

405 Section 6. Paragraph (a) of subsection (3) and subsections
 406 (4) and (5) of section 316.614, Florida Statutes, are amended to

596-02740-17

2017784c1

407 read:

408 316.614 Safety belt usage.—

409 (3) As used in this section:

410 (a) "Motor vehicle" means a motor vehicle as defined in s.
411 316.003 which is operated on the roadways, streets, and highways
412 of this state. The term does not include:

413 1. A school bus.

414 2. A bus used for the transportation of persons for
415 compensation.

416 3. A farm tractor or implement of husbandry.

417 4. A truck having a gross vehicle weight rating of more
418 than 26,000 pounds.

419 5. A motorcycle, excluding an autocycle for purposes of
420 subsections (4) and (5), moped, or bicycle.

421 (4) It is unlawful for any person:

422 (a) To operate a motor vehicle or an autocycle in this
423 state unless each passenger and the operator of the vehicle
424 under the age of 18 years are restrained by a safety belt or by
425 a child restraint device pursuant to s. 316.613, if applicable;
426 or

427 (b) To operate a motor vehicle or an autocycle in this
428 state unless the person is restrained by a safety belt.

429 (5) It is unlawful for any person 18 years of age or older
430 to be a passenger in the front seat of a motor vehicle or an
431 autocycle unless such person is restrained by a safety belt when
432 the vehicle is in motion.

433 Section 7. Subsections (24) and (26) of section 320.01,
434 Florida Statutes, are amended to read:

435 320.01 Definitions, general.—As used in the Florida

596-02740-17

2017784c1

436 Statutes, except as otherwise provided, the term:

437 (24) "Apportionable vehicle" means any vehicle, except
438 recreational vehicles, vehicles displaying restricted plates,
439 city pickup and delivery vehicles, ~~buses used in transportation~~
440 ~~of chartered parties,~~ and government-owned vehicles, which is
441 used or intended for use in two or more member jurisdictions
442 that allocate or proportionally register vehicles and which is
443 used for the transportation of persons for hire or is designed,
444 used, or maintained primarily for the transportation of property
445 and:

446 (a) Is a power unit having a gross vehicle weight in excess
447 of 26,000 pounds;

448 (b) Is a power unit having three or more axles, regardless
449 of weight; or

450 (c) Is used in combination, when the weight of such
451 combination exceeds 26,000 pounds gross vehicle weight.

452 Vehicles, or combinations thereof, having a gross vehicle weight
453 of 26,000 pounds or less and two-axle vehicles may be
454 proportionally registered.

456 (26) "Motorcycle" means any motor vehicle having a seat or
457 saddle for the use of the rider and designed to travel on not
458 more than three wheels in contact with the ground, including an
459 autocycle. The term does not include a tractor, a moped, or
460 excluding a vehicle in which the operator is enclosed by a cabin
461 unless the vehicle ~~it~~ meets the requirements set forth by the
462 National Highway Traffic Safety Administration for a motorcycle.
463 ~~The term "motorcycle" does not include a tractor or a moped.~~

464 Section 8. Paragraph (a) of subsection (15) of section

596-02740-17

2017784c1

320.02, Florida Statutes, is amended to read:

320.02 Registration required; application for registration; forms.—

(15)(a) The application form for motor vehicle registration ~~must shall~~ include language permitting the voluntary contribution of \$1 per applicant, to be quarterly distributed by the department to Preserve Vision ~~Prevent Blindness~~ Florida, a not-for-profit organization, to prevent blindness and preserve the sight of the residents of this state. A statement providing an explanation of the purpose of the funds shall be included with the application form. Prior to the department distributing the funds collected pursuant to this paragraph, Preserve Vision ~~Prevent Blindness~~ Florida must submit a report to the department that identifies how such funds were used during the preceding year.

For the purpose of applying the service charge provided in s. 215.20, contributions received under this subsection are not income of a revenue nature.

Section 9. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b)1. Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 10-year period. At the end of the 10-year period, upon renewal, the plate shall be replaced. The department shall extend the scheduled license plate replacement date from a 6-

596-02740-17

2017784c1

year period to a 10-year period. The fee for such replacement is \$28, \$2.80 of which shall be paid each year before the plate is replaced, to be credited toward the next \$28 replacement fee. The fees shall be deposited into the Highway Safety Operating Trust Fund. A credit or refund may not be given for any prior years' payments of the prorated replacement fee if the plate is replaced or surrendered before the end of the 10-year period, except that a credit may be given if a registrant is required by the department to replace a license plate under s.

320.08056(8)(a). With each license plate, a validation sticker shall be issued showing the owner's birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The validation sticker shall be placed on the upper right corner of the license plate. The license plate and validation sticker shall be issued based on the applicant's appropriate renewal period. The registration period is 12 months, the extended registration period is 24 months, and all expirations occur based on the applicant's appropriate registration period.

2. A vehicle that has an apportioned registration shall be issued an annual license plate and a cab card denoting that denote the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate. This subparagraph expires October 1, 2018.

3. Beginning October 1, 2018, a vehicle registered in accordance with the International Registration Plan which has an apportioned registration shall be issued a license plate for a 5-year period, an annual cab card denoting the declared gross vehicle weight, and an annual validation sticker showing the

596-02740-17

2017784c1

523 month and year of expiration. The validation sticker shall be
 524 placed in the center of the license plate. The license plate and
 525 validation sticker shall be issued based on the applicant's
 526 appropriate renewal period. The registration period is 12
 527 months. The fee for an original and a renewed validation sticker
 528 is \$28. This fee shall be deposited into the Highway Safety
 529 Operating Trust Fund. If the license plate is damaged or worn,
 530 it may be replaced at no charge by applying to the department
 531 and surrendering the current license plate.

532 4.2- In order to retain the efficient administration of the
 533 taxes and fees imposed by this chapter, the 80-cent fee increase
 534 in the replacement fee imposed by chapter 2009-71, Laws of
 535 Florida, is negated as provided in s. 320.0804.

536 Section 10. Section 320.0605, Florida Statutes, is amended
 537 to read:

538 320.0605 Certificate of registration; possession required;
 539 exception.-

540 (1) (a) The registration certificate or an official copy
 541 thereof, a true copy or electronic copy of rental or lease
 542 documentation issued for a motor vehicle or issued for a
 543 replacement vehicle in the same registration period, a temporary
 544 receipt printed upon self-initiated electronic renewal of a
 545 registration via the Internet, or a cab card issued for a
 546 vehicle registered under the International Registration Plan
 547 shall, at all times while the vehicle is being used or operated
 548 on the roads of this state, be in the possession of the operator
 549 thereof or be carried in the vehicle for which issued and shall
 550 be exhibited upon demand of any authorized law enforcement
 551 officer or any agent of the department, except for a vehicle

596-02740-17

2017784c1

552 registered under s. 320.0657. ~~The provisions of~~ This section
 553 ~~does~~ ~~de~~ not apply during the first 30 days after purchase of a
 554 replacement vehicle. A violation of this section is a
 555 noncriminal traffic infraction, punishable as a nonmoving
 556 violation as provided in chapter 318.

557 (b)1. The act of presenting to a law enforcement officer or
 558 agent of the department an electronic device displaying an
 559 electronic copy of rental or lease documentation does not
 560 constitute consent for the officer or agent to access any
 561 information on the device other than the displayed rental or
 562 lease documentation.

563 2. The person who presents the device to the officer or
 564 agent assumes the liability for any resulting damage to the
 565 device.

566 (2) Rental or lease documentation that is sufficient to
 567 satisfy the requirement in subsection (1) includes the
 568 following:

- 569 (a) ~~Date of rental~~ and time of ~~exit from rental facility~~;
- 570 (b) Rental station identification;
- 571 (c) Rental agreement number;
- 572 (d) Rental vehicle identification number;
- 573 (e) Rental vehicle license plate number and state of
- 574 registration;
- 575 (f) Vehicle's make, model, and color;
- 576 (g) Vehicle's mileage; and
- 577 (h) Authorized renter's name.

578 Section 11. Subsection (5) of section 320.0607, Florida
 579 Statutes, is amended to read:

580 320.0607 Replacement license plates, validation decal, or

596-02740-17

2017784c1

mobile home sticker.—

(5) Upon the issuance of an original license plate, the applicant shall pay a fee of \$28 to be deposited in the Highway Safety Operating Trust Fund. Beginning October 1, 2018, this subsection does not apply to a vehicle registered under the International Registration Plan.

Section 12. Paragraphs (ee), (eee), (qqq), and (rrr) of subsection (4) and paragraph (a) of subsection (10) of section 320.08056, Florida Statutes, are amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(ee) American Red Cross license plate, \$25.~~

~~(eee) Donate Organs-Pass It On license plate, \$25.~~

~~(qqq) St. Johns River license plate, \$25.~~

~~(rrr) Hispanic Achievers license plate, \$25.~~

(10) (a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4) (d), (bb), (kk), (iii), and (uuu) (ll), (kkk), and (yyy) and s. 320.0891.

Section 13. Subsections (31), (57), (69), and (70) of section 320.08058, Florida Statutes, are repealed.

596-02740-17

2017784c1

Section 14. Paragraph (b) of subsection (4) of section 320.08068, Florida Statutes, is amended to read:

320.08068 Motorcycle specialty license plates.—

(4) A license plate annual use fee of \$20 shall be collected for each motorcycle specialty license plate. Annual use fees shall be distributed to The Able Trust as custodial agent. The Able Trust may retain a maximum of 10 percent of the proceeds from the sale of the license plate for administrative costs. The Able Trust shall distribute the remaining funds as follows:

(b) Twenty percent to Preserve Vision ~~Prevent Blindness~~ Florida.

Section 15. Section 320.0875, Florida Statutes, is created to read:

320.0875 Purple Heart motorcycle special license plate.—

(1) Upon application to the department and payment of the license tax for the motorcycle as provided in s. 320.08, a resident of this state who owns or leases a motorcycle that is not used for hire or commercial use shall be issued a Purple Heart motorcycle special license plate if he or she provides documentation acceptable to the department that he or she is a recipient of the Purple Heart medal.

(2) The Purple Heart motorcycle special license plate shall be stamped with the words "Combat-wounded Veteran" followed by the serial number of the license plate. The Purple Heart motorcycle special license plate may have the term "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

Section 16. Paragraph (a) of subsection (1) of section

596-02740-17

2017784c1

320.089, Florida Statutes, is amended to read:

320.089 ~~Veterans of the United States Armed Forces; members of National Guard; survivors of Pearl Harbor; Purple Heart medal recipients; active or retired United States Armed Forces reservists; Combat Infantry Badge, Combat Medical Badge, or Combat Action Badge recipients; Combat Action Ribbon recipients; Air Force Combat Action Medal recipients; Distinguished Flying Cross recipients; former prisoners of war; Korean War Veterans; Vietnam War Veterans; Operation Desert Shield Veterans; Operation Desert Storm Veterans; Operation Enduring Freedom Veterans; Operation Iraqi Freedom Veterans; Women Veterans; World War II Veterans; and Navy Submariners;~~ Special license plates for military servicemembers, veterans, and Pearl Harbor survivors; fee.—

(1) (a) Upon application to the department and payment of the license tax for the vehicle as provided in s. 320.08, a resident of this state who owns or leases ~~Each owner or lessee~~ of an automobile or truck for private use or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, shall be issued a license plate pursuant to the following if the applicant provides the department with proof he or she meets the qualifications listed in this section for the applicable license plate:

1. A person released or discharged from any branch ~~who is a resident of the state and a veteran~~ of the United States Armed Forces shall be issued a license plate stamped with the words "Veteran" or "Woman Veteran" followed by the serial number of the license plate. ~~a Woman Veteran;~~

2. A World War II Veteran shall be issued a license plate

596-02740-17

2017784c1

stamped with the words "WWII Veteran" followed by the serial number of the license plate.

3. A Navy Submariner shall be issued a license plate stamped with the words "Navy Submariner" followed by the serial number of the license plate.

4. An active or retired member of the Florida National Guard shall be issued a license plate stamped with the words "National Guard" followed by the serial number of the license plate.

5. A member of the Pearl Harbor Survivors Association or other person on active military duty in Pearl Harbor on December 7, 1941, shall be issued a license plate stamped with the words "Pearl Harbor Survivor" followed by the serial number of the license plate. ~~a survivor of the attack on Pearl Harbor,~~

6. A recipient of the Purple Heart medal shall be issued a license plate stamped with the words "Combat-wounded Veteran" followed by the serial number of the license plate. The Purple Heart plate may have the words "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

7. An active or retired member of any branch of the United States Armed Forces Reserve shall be issued a license plate stamped with the words "U.S. Reserve" followed by the serial number of the license plate.

8. A member of the Combat Infantrymen's Association, Inc., or a recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, or Air Force Combat Action Medal shall be issued a license plate stamped with the words "Combat Infantry Badge," "Combat Medical Badge,"

596-02740-17

2017784c1

697 "Combat Action Badge," "Combat Action Ribbon," or "Air Force
 698 Combat Action Medal," as appropriate, and a likeness of the
 699 related campaign badge, ribbon, or medal, followed by the serial
 700 number of the license plate.

701 9. A recipient of the, ~~or~~ Distinguished Flying Cross shall
 702 be issued a license plate stamped with the words "Distinguished
 703 Flying Cross" and a likeness of the Distinguished Flying Cross
 704 followed by the serial number of the license plate.

705 10. A recipient of the Bronze Star shall be issued a
 706 license plate stamped with the words "Bronze Star" and a
 707 likeness of the Bronze Star followed by the serial number of the
 708 license plate, upon application to the department, accompanied
 709 by proof of release or discharge from any branch of the United
 710 States Armed Forces, proof of active membership or retired
 711 status in the Florida National Guard, proof of membership in the
 712 Pearl Harbor Survivors Association or proof of active military
 713 duty in Pearl Harbor on December 7, 1941, proof of being a
 714 Purple Heart medal recipient, proof of active or retired
 715 membership in any branch of the United States Armed Forces
 716 Reserve, or proof of membership in the Combat Infantrymen's
 717 Association, Inc., proof of being a recipient of the Combat
 718 Infantry Badge, Combat Medical Badge, Combat Action Badge,
 719 Combat Action Ribbon, Air Force Combat Action Medal, or
 720 Distinguished Flying Cross, and upon payment of the license tax
 721 for the vehicle as provided in s. 320.08, shall be issued a
 722 license plate as provided by s. 320.06 which, in lieu of the
 723 serial numbers prescribed by s. 320.06, is stamped with the
 724 words "Veteran," "Woman Veteran," "WWII Veteran," "Navy
 725 Submariner," "National Guard," "Pearl Harbor Survivor," "Combat-

596-02740-17

2017784c1

726 ~~wounded veteran," "U.S. Reserve," "Combat Infantry Badge,"~~
 727 ~~"Combat Medical Badge," "Combat Action Badge," "Combat Action~~
 728 ~~Ribbon," "Air Force Combat Action Medal," or "Distinguished~~
 729 ~~Flying Cross," as appropriate, and a likeness of the related~~
 730 ~~campaign medal or badge, followed by the serial number of the~~
 731 ~~license plate. Additionally, the Purple Heart plate may have the~~
 732 ~~words "Purple Heart" stamped on the plate and the likeness of~~
 733 ~~the Purple Heart medal appearing on the plate.~~

734 Section 17. Section 320.133, Florida Statutes, is amended
 735 to read:

736 320.133 Transporter license plates.-

737 (1) As used in this section, the term "transporter license
 738 plate eligible business" means a business that is engaged in the
 739 limited operation of an unregistered motor vehicle, or a
 740 repossessor that contracts with lending institutions to
 741 repossess or recover motor vehicles or mobile homes.

742 (2) A person is not eligible to purchase or renew a
 743 transporter license plate unless he or she provides proof
 744 satisfactory to the department that his or her business is a
 745 transporter license plate eligible business.

746 (3) The application for qualification as a transporter
 747 license plate eligible business must be in such form as is
 748 prescribed by the department and must contain the legal name of
 749 the person or persons applying for the license plate, the name
 750 of the business, and the principal or principals of the
 751 business. The application must describe the exact physical
 752 location of the place of business within the state. This
 753 location must be available at all reasonable hours for
 754 inspection of the transporter license plate records by the

596-02740-17

2017784c1

department or any law enforcement agency. The application must contain proof of a garage liability insurance policy, or a business automobile policy, in the amount of at least \$100,000. The certificate of insurance must indicate the number of transporter license plates reported to the insurance company. Such coverage shall be maintained for the entire registration period. Upon seeking initial qualification, the applicant must provide documentation proving that the business is registered with the Division of Corporations of the Department of State to conduct business in this state. The business must indicate how it meets the qualification as a transporter license plate eligible business by describing in detail the business processes that require the use of a transporter license plate.

(4) (a) ~~(1)~~ The department ~~may~~ is authorized to issue a transporter license plate to an ~~any~~ applicant who is not a licensed dealer and who is qualified as a transporter license plate eligible business, ~~incidental to the conduct of his or her business, engages in the transporting of motor vehicles which are not currently registered to any owner and which do not have license plates,~~ upon payment of the license tax imposed by s. 320.08(15) for each transporter ~~such~~ license plate and upon proof of ~~liability~~ insurance as described in subsection (3) ~~coverage in the amount of \$100,000 or more. The proof of~~ insurance must indicate the number of transporter license plates reported to the insurance company, which shall be the maximum number of transporter license plates issued to the applicant. ~~Such~~ A transporter license plate is valid only for use on an ~~unregistered~~ ~~any~~ motor vehicle in the possession of the transporter while the motor vehicle is being transported in the

596-02740-17

2017784c1

course of the transporter's business and must not be attached to any vehicle owned by the transporter or his or her business for which registration would otherwise be required. A person who sells or unlawfully possesses, distributes, or brokers a transporter license plate to be attached to any vehicle commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any and all transporter license plates issued are subject to cancellation by the department.

(b) A person who knowingly and willfully sells or unlawfully possesses, distributes, or brokers a transporter license plate to avoid registering a vehicle requiring registration pursuant to this chapter or chapter 319 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and is disqualified from transporter license plate usage. All transporter license plates issued to the person's business shall be canceled and must be returned to the department immediately upon disqualification. The transporter license plate is subject to removal as provided in subsection (9), and any and all transporter plates issued are subject to cancellation by the department.

(5) A transporter license plate eligible business issued a transporter license plate must maintain for 2 years, at its location, records of each use of each transporter license plate and evidence that the plate was used as required by this chapter. Such records must be open to inspection by the department or its agents or any law enforcement officer during reasonable business hours. A person who fails to maintain true and accurate records of any transporter license plate usage or comply with this subsection commits a misdemeanor of the second

596-02740-17

2017784c1

degree, punishable as provided in s. 775.082 or s. 775.083, may be subject to cancellation of any and all transporter license plates issued, and is automatically disqualified from future transporter license plate issuance.

(6) When attached to a motor vehicle, a transporter license plate issued under this section must be accompanied by the registration issued for the transporter license plate by the department and proof of insurance as described in subsection (3). A person who operates a motor vehicle with a transporter license plate attached who fails to provide the documentation listed in this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and the transporter license plate is subject to removal as provided in subsection (9). This subsection does not apply to a person who contracts with dealers and auctions to transport motor vehicles.

(7)(2) A transporter license plate issued pursuant to subsection (4) (1) must be in a distinctive color approved by the department, and the word "transporter" must appear on the face of the license plate in place of the county name.

(8)(3) An initial registration or renewal A license plate issued under this section is valid for a period of 12 months, beginning January 1 and ending December 31. A No refund of the license tax imposed may not be provided for any unexpired portion of a license period.

(9) A transporter license plate attached to a motor vehicle in violation of subsection (4) or subsection (6) must be immediately removed by a law enforcement officer from the motor vehicle to which it was attached and surrendered to the

596-02740-17

2017784c1

department by the law enforcement agency for cancellation.

Section 18. Section 321.25, Florida Statutes, is amended to read:

321.25 Training provided at patrol schools; reimbursement of tuition and other course expenses.—

(1) The Department of Highway Safety and Motor Vehicles may ~~is authorized to~~ provide for the training of law enforcement officials and individuals in matters relating to the duties, functions, and powers of the Florida Highway Patrol in the schools established by the department for the training of highway patrol candidates and officers. The Department of Highway Safety and Motor Vehicles may ~~is authorized to~~ charge a fee for providing the training authorized by this section. The fee shall be charged to persons attending the training. The fee shall be based on the Department of Highway Safety and Motor Vehicles' costs for providing the training, and such costs may include, but are not limited to, tuition, lodging, and meals. Revenues from the fees shall be used to offset the Department of Highway Safety and Motor Vehicles' costs for providing the training. The cost of training local enforcement officers shall be paid for by their respective offices, counties, or municipalities, as the case may be. Such cost shall be deemed a proper county or municipal expense or a proper expenditure of the office of sheriff.

(2) Notwithstanding s. 943.16, a person who attends training under subsection (1) at the expense of the Department of Highway Safety and Motor Vehicles must remain in the employment or appointment of the Florida Highway Patrol for at least 3 years. Once employed, if the person fails to remain

596-02740-17

2017784c1

871 employed by the Florida Highway Patrol for at least 3 years from
 872 the first date of employment, the person must pay the cost of
 873 tuition and other course expenses to the Department of Highway
 874 Safety and Motor Vehicles. As used in this section, the term
 875 "other course expenses" may include the cost of meals and
 876 lodging.

877 (3) The Department of Highway Safety and Motor Vehicles may
 878 institute a civil action to collect the cost of tuition and
 879 other course expenses if it is not reimbursed pursuant to
 880 subsection (2), provided that the Florida Highway Patrol gave
 881 written notification to the person of the 3-year employment
 882 commitment during the employment screening process and the
 883 person returned signed acknowledgment of receipt of such
 884 notification.

885 (4) Notwithstanding any other provision of this section,
 886 the Department of Highway Safety and Motor Vehicles may waive a
 887 person's requirement of reimbursement in part or in full when
 888 the person terminates employment due to hardship or extenuating
 889 circumstances.

890 Section 19. Subsection (4) of section 322.01, Florida
 891 Statutes, is amended to read:

892 322.01 Definitions.—As used in this chapter:

893 (4) "Authorized emergency vehicle" means a vehicle that is
 894 equipped with extraordinary audible and visual warning devices,
 895 that is authorized by s. 316.2397 to display red, red and white,
 896 or blue lights, and that is on call to respond to emergencies.
 897 The term includes, but is not limited to, ambulances, law
 898 enforcement vehicles, fire trucks, and other rescue vehicles.
 899 The term does not include wreckers, utility trucks, or other

596-02740-17

2017784c1

900 vehicles that are used only incidentally for emergency purposes.

901 Section 20. Subsection (4) of section 322.03, Florida
 902 Statutes, is amended to read:

903 322.03 Drivers must be licensed; penalties.—

904 (4) A person may not operate a motorcycle unless he or she
 905 holds a driver license that authorizes such operation, subject
 906 to the appropriate restrictions and endorsements. A person may
 907 operate an autocycle without a motorcycle endorsement.

908 Section 21. Paragraph (e) of subsection (8) of section
 909 322.051, Florida Statutes, is amended to read:

910 322.051 Identification cards.—

911 (8)

912 (e)1. Upon request by a person who has posttraumatic stress
 913 disorder, a traumatic brain injury, or a developmental
 914 disability, or by a parent or guardian of a child or ward who
 915 has posttraumatic stress disorder, a traumatic brain injury, or
 916 a developmental disability, the department shall issue an
 917 identification card exhibiting a capital "D" for the person,
 918 child, or ward if the person or the parent or guardian of the
 919 child or ward submits:

920 a. Payment of an additional \$1 fee; and

921 b. Proof acceptable to the department of a diagnosis by a
 922 licensed physician of a developmental disability as defined in
 923 s. 393.063, posttraumatic stress disorder, or traumatic brain
 924 injury.

925 2. The department shall deposit the additional \$1 fee into
 926 the Agency for Persons with Disabilities Operations and
 927 Maintenance Trust Fund under s. 20.1971(2).

928 3. A replacement identification card that includes the

596-02740-17

2017784c1

929 designation may be issued without payment of the fee required
930 under s. 322.21(1)(f).

931 4. The department shall develop rules to facilitate the
932 issuance, requirements, and oversight of posttraumatic stress
933 disorder, traumatic brain injury, and developmental disability
934 identification cards under this section.

935 Section 22. Paragraph (m) of subsection (8) of section
936 322.08, Florida Statutes, is amended to read:

937 322.08 Application for license; requirements for license
938 and identification card forms.—

939 (8) The application form for an original, renewal, or
940 replacement driver license or identification card must include
941 language permitting the following:

942 (m) A voluntary contribution of \$1 per applicant, which
943 shall be distributed to Preserve Vision ~~Prevent Blindness~~
944 Florida, a not-for-profit organization, to prevent blindness and
945 preserve the sight of the residents of this state.

946
947 A statement providing an explanation of the purpose of the trust
948 funds shall also be included. For the purpose of applying the
949 service charge provided under s. 215.20, contributions received
950 under paragraphs (b)-(t) are not income of a revenue nature.

951 Section 23. Subsection (5) of section 322.091, Florida
952 Statutes, is amended to read:

953 322.091 Attendance requirements.—

954 (5) REPORTING AND ACCOUNTABILITY.—The department shall make
955 available, upon request, a report ~~quarterly~~ to each school
956 district of the legal name, sex, date of birth, and social
957 security number of each student whose driving privileges have

596-02740-17

2017784c1

958 been suspended under this section.

959 Section 24. Subsections (1) and (5) of section 322.12,
960 Florida Statutes, are amended to read:

961 322.12 Examination of applicants.—

962 (1) It is the intent of the Legislature that every
963 applicant for an original driver license in this state be
964 required to pass an examination pursuant to this section.
965 However, the department may waive the knowledge, endorsement,
966 and skills tests for an applicant who is otherwise qualified and
967 who surrenders a valid driver license from another state or a
968 province of Canada, or a valid driver license issued by the
969 United States Armed Forces, if the driver applies for a Florida
970 license of an equal or lesser classification. An ~~Any~~ applicant
971 who fails to pass the initial knowledge test incurs a \$10 fee
972 for each subsequent test, to be deposited into the Highway
973 Safety Operating Trust Fund; however, if a subsequent test is
974 administered by the tax collector, the tax collector shall
975 retain the \$10 fee. An ~~Any~~ applicant who fails to pass the
976 initial skills test incurs a \$20 fee for each subsequent test,
977 to be deposited into the Highway Safety Operating Trust Fund;
978 however, if a subsequent test is administered by the tax
979 collector, the tax collector shall retain the \$20 fee. A person
980 who seeks to retain a hazardous-materials endorsement, pursuant
981 to s. 322.57(1)(e), must pass the hazardous-materials test, upon
982 surrendering his or her commercial driver license, if the person
983 has not taken and passed the hazardous-materials test within 2
984 years before applying for a commercial driver license in this
985 state.

986 (5)(a) The department shall formulate a separate

596-02740-17

2017784c1

987 examination for applicants for licenses to operate motorcycles.
 988 Any applicant for a driver license who wishes to operate a
 989 motorcycle, and who is otherwise qualified, must successfully
 990 complete such an examination, which is in addition to the
 991 examination administered under subsection (3). The examination
 992 must test the applicant's knowledge of the operation of a
 993 motorcycle and of any traffic laws specifically relating thereto
 994 and must include an actual demonstration of his or her ability
 995 to exercise ordinary and reasonable control in the operation of
 996 a motorcycle. Any applicant who fails to pass the initial
 997 knowledge examination will incur a \$5 fee for each subsequent
 998 examination, to be deposited into the Highway Safety Operating
 999 Trust Fund. Any applicant who fails to pass the initial skills
 1000 examination will incur a \$10 fee for each subsequent
 1001 examination, to be deposited into the Highway Safety Operating
 1002 Trust Fund. In the formulation of the examination, the
 1003 department shall consider the use of the Motorcycle Operator
 1004 Skills Test and the Motorcycle in Traffic Test offered by the
 1005 Motorcycle Safety Foundation. The department shall indicate on
 1006 the license of any person who successfully completes the
 1007 examination that the licensee is authorized to operate a
 1008 motorcycle. If the applicant wishes to be licensed to operate a
 1009 motorcycle only, he or she need not take the skill or road test
 1010 required under subsection (3) for the operation of a motor
 1011 vehicle, and the department shall indicate such a limitation on
 1012 his or her license as a restriction. Every first-time applicant
 1013 for licensure to operate a motorcycle must provide proof of
 1014 completion of a motorcycle safety course, as provided for in s.
 1015 322.0255, before the applicant may be licensed to operate a

Page 35 of 55

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596-02740-17

2017784c1

1016 motorcycle.
 1017 (b) The department may exempt any applicant from the
 1018 examination provided in this subsection if the applicant
 1019 presents a certificate showing successful completion of a course
 1020 approved by the department, which course includes a similar
 1021 examination of the knowledge and skill of the applicant in the
 1022 operation of a motorcycle.
 1023 (c) This subsection does not apply to the operation of an
 1024 autocycle.
 1025 Section 25. Paragraph (b) of subsection (1) of section
 1026 322.17, Florida Statutes, is amended to read:
 1027 322.17 Replacement licenses, identification cards, and
 1028 permits.—
 1029 (1)
 1030 (b) In the event that an instruction permit, ~~or~~ driver
 1031 license, or identification card issued under ~~the provisions of~~
 1032 this chapter is stolen, the person to whom the same was issued
 1033 may, at no charge, obtain a replacement upon furnishing proof
 1034 satisfactory to the department that such permit, ~~or~~ license, or
 1035 identification card was stolen and further furnishing the
 1036 person's full name, date of birth, sex, residence and mailing
 1037 address, proof of birth satisfactory to the department, and
 1038 proof of identity satisfactory to the department.
 1039 Section 26. Paragraphs (e) and (i) of subsection (1) and
 1040 subsection (8) of section 322.21, Florida Statutes, are amended,
 1041 and subsection (10) is added to that section, to read:
 1042 322.21 License fees; procedure for handling and collecting
 1043 fees.—
 1044 (1) Except as otherwise provided herein, the fee for:

Page 36 of 55

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596-02740-17

2017784c1

(e) A replacement driver license issued pursuant to s. 322.17 is \$25. Of this amount, \$7 shall be deposited into the Highway Safety Operating Trust Fund and \$18 shall be deposited into the General Revenue Fund. ~~Beginning July 1, 2015, or upon completion of the transition of driver license issuance services,~~ If the replacement driver license is issued by the tax collector, the tax collector shall retain the \$7 that would otherwise be deposited into the Highway Safety Operating Trust Fund and the remaining revenues shall be deposited into the General Revenue Fund.

~~(i) The specialty driver license or identification card issued pursuant to s. 322.1415 is \$25, which is in addition to other fees required in this section. The fee shall be distributed as follows:~~

~~1. Fifty percent shall be distributed as provided in s. 320.08058 to the appropriate state or independent university, professional sports team, or branch of the United States Armed Forces.~~

~~2. Fifty percent shall be distributed to the department for costs directly related to the specialty driver license and identification card program and to defray the costs associated with production enhancements and distribution.~~

(8) ~~A~~ Any person who applies for reinstatement following the suspension or revocation of the person's driver license must pay a service fee of \$45 following a suspension, and \$75 following a revocation, which is in addition to the fee for a license. ~~A~~ Any person who applies for reinstatement of a commercial driver license following the disqualification of the person's privilege to operate a commercial motor vehicle shall

596-02740-17

2017784c1

pay a service fee of \$75, which is in addition to the fee for a license. The department shall collect all of these fees at the time of reinstatement. The department shall issue proper receipts for such fees and shall promptly transmit all funds received by it as follows:

(a) Of the \$45 fee received from a licensee for reinstatement following a suspension:

1. If the reinstatement is processed by the department, the department shall deposit \$15 in the General Revenue Fund and \$30 in the Highway Safety Operating Trust Fund.

2. If the reinstatement is processed by the tax collector, \$15 shall be retained by the tax collector, \$15 shall be deposited into the Highway Safety Operating Trust Fund, and \$15 shall be deposited into the General Revenue Fund.

(b) Of the \$75 fee received from a licensee for reinstatement following a revocation or disqualification:

1. If the reinstatement is processed by the department, the department shall deposit \$35 in the General Revenue Fund and \$40 in the Highway Safety Operating Trust Fund.

2. If the reinstatement is processed by the tax collector, \$20 shall be retained by the tax collector, \$20 shall be deposited into the Highway Safety Operating Trust Fund, and \$35 shall be deposited into the General Revenue Fund.

If the revocation or suspension of the driver license was for a violation of s. 316.193, or for refusal to submit to a lawful breath, blood, or urine test, an additional fee of \$130 must be charged. However, only one \$130 fee may be collected from one person convicted of violations arising out of the same incident.

596-02740-17

2017784c1

The department shall collect the \$130 fee and deposit the fee into the Highway Safety Operating Trust Fund at the time of reinstatement of the person's driver license, but the fee may not be collected if the suspension or revocation is overturned. If the revocation or suspension of the driver license was for a conviction for a violation of s. 817.234(8) or (9) or s. 817.505, an additional fee of \$180 is imposed for each offense. The department shall collect and deposit the additional fee into the Highway Safety Operating Trust Fund at the time of reinstatement of the person's driver license.

(10) An applicant who submits an application for a renewal or replacement driver license or identification card to the department using a convenience service shall be provided with an option for expedited shipping whereby the department, at the applicant's request, shall issue the license or identification card within 5 working days after receipt of the application and ship the license or card using an expedited mail service. A fee shall be charged for the expedited shipping option, not to exceed the cost of the expedited mail service, which is in addition to fees imposed by s. 322.051, this section, or the convenience service. Fees collected for the expedited shipping option shall be deposited into the Highway Safety Operating Trust Fund.

Section 27. Subsection (1) of section 322.61, Florida Statutes, is amended, and subsection (2) of that section is reenacted, to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(1) A person who, for offenses occurring within a 3-year

596-02740-17

2017784c1

period, is convicted of two of the following serious traffic violations, or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days. A holder of a commercial driver license or commercial learner's permit who, for offenses occurring within a 3-year period, is convicted of two of the following serious traffic violations, or any combination thereof, arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege:

(a) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;

(b) Reckless driving, as defined in s. 316.192;

(c) Unlawful speed of 15 miles per hour or more above the posted speed limit;

(d) Improper lane change, as defined in s. 316.085;

(e) Following too closely, as defined in s. 316.0895;

(f) Texting while driving a commercial motor vehicle, as prohibited by 49 C.F.R. 392.80;

(g) Using a handheld mobile telephone while driving a commercial motor vehicle, as prohibited by 49 C.F.R. 392.82;

(h) ~~(f)~~ Driving a commercial vehicle without obtaining a commercial driver license;

(i) ~~(g)~~ Driving a commercial vehicle without the proper

596-02740-17

2017784c1

class of commercial driver license or commercial learner's permit or without the proper endorsement; or

(j) ~~(h)~~ Driving a commercial vehicle without a commercial driver license or commercial learner's permit in possession, as required by s. 322.03.

(2) (a) Any person who, for offenses occurring within a 3-year period, is convicted of three serious traffic violations specified in subsection (1) or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, including but not limited to the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days.

(b) A holder of a commercial driver license or commercial learner's permit who, for offenses occurring within a 3-year period, is convicted of three serious traffic violations specified in subsection (1) or any combination thereof arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, including, but not limited to, the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege.

Section 28. Paragraph (c) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible

596-02740-17

2017784c1

personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(c) At the rate of 6 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein; however, the following special provisions apply to the lease or rental of motor vehicles:

1. When a motor vehicle is leased or rented for a period of less than 12 months:

a. If the motor vehicle is rented in Florida, the entire amount of such rental is taxable, even if the vehicle is dropped off in another state.

b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s.

596-02740-17

2017784c1

1219 316.003(13)(a) ~~316.003(12)(a)~~ to one lessee or rentee for a
 1220 period of not less than 12 months when tax was paid on the
 1221 purchase price of such vehicle by the lessor. To the extent tax
 1222 was paid with respect to the purchase of such vehicle in another
 1223 state, territory of the United States, or the District of
 1224 Columbia, the Florida tax payable shall be reduced in accordance
 1225 with the provisions of s. 212.06(7). This subparagraph shall
 1226 only be available when the lease or rental of such property is
 1227 an established business or part of an established business or
 1228 the same is incidental or germane to such business.

1229 Section 29. Subsection (1) of section 316.303, Florida
 1230 Statutes, is amended to read:

1231 316.303 Television receivers.—

1232 (1) No motor vehicle may be operated on the highways of
 1233 this state if the vehicle is actively displaying moving
 1234 television broadcast or pre-recorded video entertainment content
 1235 that is visible from the driver's seat while the vehicle is in
 1236 motion, unless the vehicle is equipped with autonomous
 1237 technology, as defined in s. 316.003(3) ~~316.003(2)~~, and is being
 1238 operated in autonomous mode, as provided in s. 316.85(2).

1239 Section 30. Paragraph (b) of subsection (2) of section
 1240 316.545, Florida Statutes, is amended to read:

1241 316.545 Weight and load unlawful; special fuel and motor
 1242 fuel tax enforcement; inspection; penalty; review.—

1243 (2)

1244 (b) The officer or inspector shall inspect the license
 1245 plate or registration certificate of the commercial vehicle to
 1246 determine whether its gross weight is in compliance with the
 1247 declared gross vehicle weight. If its gross weight exceeds the

596-02740-17

2017784c1

1248 declared weight, the penalty shall be 5 cents per pound on the
 1249 difference between such weights. In those cases when the
 1250 commercial vehicle is being operated over the highways of the
 1251 state with an expired registration or with no registration from
 1252 this or any other jurisdiction or is not registered under the
 1253 applicable provisions of chapter 320, the penalty herein shall
 1254 apply on the basis of 5 cents per pound on that scaled weight
 1255 which exceeds 35,000 pounds on laden truck tractor-semitrailer
 1256 combinations or tandem trailer truck combinations, 10,000 pounds
 1257 on laden straight trucks or straight truck-trailer combinations,
 1258 or 10,000 pounds on any unladen commercial motor vehicle. A
 1259 driver of a commercial motor vehicle entering the state at a
 1260 designated port-of-entry location, as defined in s. 316.003 ~~s.~~
 1261 ~~316.003(54)~~, or operating on designated routes to a port-of-
 1262 entry location, who obtains a temporary registration permit
 1263 shall be assessed a penalty limited to the difference between
 1264 its gross weight and the declared gross vehicle weight at 5
 1265 cents per pound. If the license plate or registration has not
 1266 been expired for more than 90 days, the penalty imposed under
 1267 this paragraph may not exceed \$1,000. In the case of special
 1268 mobile equipment, which qualifies for the license tax provided
 1269 for in s. 320.08(5)(b), being operated on the highways of the
 1270 state with an expired registration or otherwise not properly
 1271 registered under the applicable provisions of chapter 320, a
 1272 penalty of \$75 shall apply in addition to any other penalty
 1273 which may apply in accordance with this chapter. A vehicle found
 1274 in violation of this section may be detained until the owner or
 1275 operator produces evidence that the vehicle has been properly
 1276 registered. Any costs incurred by the retention of the vehicle

596-02740-17 2017784c1

shall be the sole responsibility of the owner. A person who has been assessed a penalty pursuant to this paragraph for failure to have a valid vehicle registration certificate pursuant to the provisions of chapter 320 is not subject to the delinquent fee authorized in s. 320.07 if such person obtains a valid registration certificate within 10 working days after such penalty was assessed.

Section 31. Paragraph (a) of subsection (2) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(2) As used in this section, the term "motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of the state. The term does not include:

(a) A school bus as defined in s. 316.003 ~~s. 316.003(68)~~.

Section 32. Section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(4) ~~s. 316.003(2)~~, tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES AND MOPEDS.—

(a) Any motorcycle: \$10 flat.

(b) Any moped: \$5 flat.

(c) Upon registration of a motorcycle, motor-driven cycle,

596-02740-17 2017784c1

or moped, in addition to the license taxes specified in this subsection, a nonrefundable motorcycle safety education fee in the amount of \$2.50 shall be paid. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund to fund a motorcycle driver improvement program implemented pursuant to s. 322.025, the Florida Motorcycle Safety Education Program established in s. 322.0255, or the general operations of the department.

(d) An ancient or antique motorcycle: \$7.50 flat, of which \$2.50 shall be deposited into the General Revenue Fund.

(2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—

(a) An ancient or antique automobile, as defined in s. 320.086, or a street rod, as defined in s. 320.0863: \$7.50 flat.

(b) Net weight of less than 2,500 pounds: \$14.50 flat.

(c) Net weight of 2,500 pounds or more, but less than 3,500 pounds: \$22.50 flat.

(d) Net weight of 3,500 pounds or more: \$32.50 flat.

(3) TRUCKS.—

(a) Net weight of less than 2,000 pounds: \$14.50 flat.

(b) Net weight of 2,000 pounds or more, but not more than 3,000 pounds: \$22.50 flat.

(c) Net weight more than 3,000 pounds, but not more than 5,000 pounds: \$32.50 flat.

(d) A truck defined as a "goat," or other vehicle if used in the field by a farmer or in the woods for the purpose of harvesting a crop, including naval stores, during such harvesting operations, and which is not principally operated upon the roads of the state: \$7.50 flat. The term "goat" means a motor vehicle designed, constructed, and used principally for

596-02740-17

2017784c1

the transportation of citrus fruit within citrus groves or for the transportation of crops on farms, and which can also be used for hauling associated equipment or supplies, including required sanitary equipment, and the towing of farm trailers.

(e) An ancient or antique truck, as defined in s. 320.086: \$7.50 flat.

(4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS VEHICLE WEIGHT.—

(a) Gross vehicle weight of 5,001 pounds or more, but less than 6,000 pounds: \$60.75 flat, of which \$15.75 shall be deposited into the General Revenue Fund.

(b) Gross vehicle weight of 6,000 pounds or more, but less than 8,000 pounds: \$87.75 flat, of which \$22.75 shall be deposited into the General Revenue Fund.

(c) Gross vehicle weight of 8,000 pounds or more, but less than 10,000 pounds: \$103 flat, of which \$27 shall be deposited into the General Revenue Fund.

(d) Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: \$118 flat, of which \$31 shall be deposited into the General Revenue Fund.

(e) Gross vehicle weight of 15,000 pounds or more, but less than 20,000 pounds: \$177 flat, of which \$46 shall be deposited into the General Revenue Fund.

(f) Gross vehicle weight of 20,000 pounds or more, but less than 26,001 pounds: \$251 flat, of which \$65 shall be deposited into the General Revenue Fund.

(g) Gross vehicle weight of 26,001 pounds or more, but less than 35,000: \$324 flat, of which \$84 shall be deposited into the General Revenue Fund.

596-02740-17

2017784c1

(h) Gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds: \$405 flat, of which \$105 shall be deposited into the General Revenue Fund.

(i) Gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds: \$773 flat, of which \$201 shall be deposited into the General Revenue Fund.

(j) Gross vehicle weight of 55,000 pounds or more, but less than 62,000 pounds: \$916 flat, of which \$238 shall be deposited into the General Revenue Fund.

(k) Gross vehicle weight of 62,000 pounds or more, but less than 72,000 pounds: \$1,080 flat, of which \$280 shall be deposited into the General Revenue Fund.

(l) Gross vehicle weight of 72,000 pounds or more: \$1,322 flat, of which \$343 shall be deposited into the General Revenue Fund.

(m) Notwithstanding the declared gross vehicle weight, a truck tractor used within a 150-mile radius of its home address is eligible for a license plate for a fee of \$324 flat if:

1. The truck tractor is used exclusively for hauling forestry products; or

2. The truck tractor is used primarily for the hauling of forestry products, and is also used for the hauling of associated forestry harvesting equipment used by the owner of the truck tractor.

Of the fee imposed by this paragraph, \$84 shall be deposited into the General Revenue Fund.

(n) A truck tractor or heavy truck, not operated as a for-hire vehicle, which is engaged exclusively in transporting raw,

596-02740-17

2017784c1

unprocessed, and nonmanufactured agricultural or horticultural products within a 150-mile radius of its home address, is eligible for a restricted license plate for a fee of:

1. If such vehicle's declared gross vehicle weight is less than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be deposited into the General Revenue Fund.

2. If such vehicle's declared gross vehicle weight is 44,000 pounds or more and such vehicle only transports from the point of production to the point of primary manufacture; to the point of assembling the same; or to a shipping point of a rail, water, or motor transportation company, \$324 flat, of which \$84 shall be deposited into the General Revenue Fund.

Such not-for-hire truck tractors and heavy trucks used exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products may be incidentally used to haul farm implements and fertilizers delivered direct to the growers. The department may require any documentation deemed necessary to determine eligibility prior to issuance of this license plate. For the purpose of this paragraph, "not-for-hire" means the owner of the motor vehicle must also be the owner of the raw, unprocessed, and nonmanufactured agricultural or horticultural product, or the user of the farm implements and fertilizer being delivered.

(5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

(a)1. A semitrailer drawn by a GVW truck tractor by means of a fifth-wheel arrangement: \$13.50 flat per registration year or any part thereof, of which \$3.50 shall be deposited into the

596-02740-17

2017784c1

General Revenue Fund.

2. A semitrailer drawn by a GVW truck tractor by means of a fifth-wheel arrangement: \$68 flat per permanent registration, of which \$18 shall be deposited into the General Revenue Fund.

(b) A motor vehicle equipped with machinery and designed for the exclusive purpose of well drilling, excavation, construction, spraying, or similar activity, and which is not designed or used to transport loads other than the machinery described above over public roads: \$44 flat, of which \$11.50 shall be deposited into the General Revenue Fund.

(c) A school bus used exclusively to transport pupils to and from school or school or church activities or functions within their own county: \$41 flat, of which \$11 shall be deposited into the General Revenue Fund.

(d) A wrecker, as defined in s. 320.01, which is used to tow a vessel as defined in s. 327.02, a disabled, abandoned, stolen-recovered, or impounded motor vehicle as defined in s. 320.01, or a replacement motor vehicle as defined in s. 320.01: \$41 flat, of which \$11 shall be deposited into the General Revenue Fund.

(e) A wrecker that is used to tow any nondisabled motor vehicle, a vessel, or any other cargo unless used as defined in paragraph (d), as follows:

1. Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: \$118 flat, of which \$31 shall be deposited into the General Revenue Fund.

2. Gross vehicle weight of 15,000 pounds or more, but less than 20,000 pounds: \$177 flat, of which \$46 shall be deposited into the General Revenue Fund.

596-02740-17

2017784c1

1451 3. Gross vehicle weight of 20,000 pounds or more, but less
 1452 than 26,000 pounds: \$251 flat, of which \$65 shall be deposited
 1453 into the General Revenue Fund.

1454 4. Gross vehicle weight of 26,000 pounds or more, but less
 1455 than 35,000 pounds: \$324 flat, of which \$84 shall be deposited
 1456 into the General Revenue Fund.

1457 5. Gross vehicle weight of 35,000 pounds or more, but less
 1458 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
 1459 into the General Revenue Fund.

1460 6. Gross vehicle weight of 44,000 pounds or more, but less
 1461 than 55,000 pounds: \$772 flat, of which \$200 shall be deposited
 1462 into the General Revenue Fund.

1463 7. Gross vehicle weight of 55,000 pounds or more, but less
 1464 than 62,000 pounds: \$915 flat, of which \$237 shall be deposited
 1465 into the General Revenue Fund.

1466 8. Gross vehicle weight of 62,000 pounds or more, but less
 1467 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
 1468 deposited into the General Revenue Fund.

1469 9. Gross vehicle weight of 72,000 pounds or more: \$1,322
 1470 flat, of which \$343 shall be deposited into the General Revenue
 1471 Fund.

1472 (f) A hearse or ambulance: \$40.50 flat, of which \$10.50
 1473 shall be deposited into the General Revenue Fund.

1474 (6) MOTOR VEHICLES FOR HIRE.—

1475 (a) Under nine passengers: \$17 flat, of which \$4.50 shall
 1476 be deposited into the General Revenue Fund; plus \$1.50 per cwt,
 1477 of which 50 cents shall be deposited into the General Revenue
 1478 Fund.

1479 (b) Nine passengers and over: \$17 flat, of which \$4.50

Page 51 of 55

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596-02740-17

2017784c1

1480 shall be deposited into the General Revenue Fund; plus \$2 per
 1481 cwt, of which 50 cents shall be deposited into the General
 1482 Revenue Fund.

1483 (7) TRAILERS FOR PRIVATE USE.—

1484 (a) Any trailer weighing 500 pounds or less: \$6.75 flat per
 1485 year or any part thereof, of which \$1.75 shall be deposited into
 1486 the General Revenue Fund.

1487 (b) Net weight over 500 pounds: \$3.50 flat, of which \$1
 1488 shall be deposited into the General Revenue Fund; plus \$1 per
 1489 cwt, of which 25 cents shall be deposited into the General
 1490 Revenue Fund.

1491 (8) TRAILERS FOR HIRE.—

1492 (a) Net weight under 2,000 pounds: \$3.50 flat, of which \$1
 1493 shall be deposited into the General Revenue Fund; plus \$1.50 per
 1494 cwt, of which 50 cents shall be deposited into the General
 1495 Revenue Fund.

1496 (b) Net weight 2,000 pounds or more: \$13.50 flat, of which
 1497 \$3.50 shall be deposited into the General Revenue Fund; plus
 1498 \$1.50 per cwt, of which 50 cents shall be deposited into the
 1499 General Revenue Fund.

1500 (9) RECREATIONAL VEHICLE-TYPE UNITS.—

1501 (a) A travel trailer or fifth-wheel trailer, as defined by
 1502 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27
 1503 flat, of which \$7 shall be deposited into the General Revenue
 1504 Fund.

1505 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:
 1506 \$13.50 flat, of which \$3.50 shall be deposited into the General
 1507 Revenue Fund.

1508 (c) A motor home, as defined by s. 320.01(1)(b)4.:

Page 52 of 55

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

596-02740-17 2017784c1

1509 1. Net weight of less than 4,500 pounds: \$27 flat, of which
 1510 \$7 shall be deposited into the General Revenue Fund.

1511 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
 1512 which \$12.25 shall be deposited into the General Revenue Fund.

1513 (d) A truck camper as defined by s. 320.01(1)(b)3.:

1514 1. Net weight of less than 4,500 pounds: \$27 flat, of which
 1515 \$7 shall be deposited into the General Revenue Fund.

1516 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
 1517 which \$12.25 shall be deposited into the General Revenue Fund.

1518 (e) A private motor coach as defined by s. 320.01(1)(b)5.:

1519 1. Net weight of less than 4,500 pounds: \$27 flat, of which
 1520 \$7 shall be deposited into the General Revenue Fund.

1521 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
 1522 which \$12.25 shall be deposited into the General Revenue Fund.

1523 (10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;
 1524 35 FEET TO 40 FEET.—

1525 (a) Park trailers.—Any park trailer, as defined in s.
 1526 320.01(1)(b)7.: \$25 flat.

1527 (b) A travel trailer or fifth-wheel trailer, as defined in
 1528 s. 320.01(1)(b), that exceeds 35 feet: \$25 flat.

1529 (11) MOBILE HOMES.—

1530 (a) A mobile home not exceeding 35 feet in length: \$20
 1531 flat.

1532 (b) A mobile home over 35 feet in length, but not exceeding
 1533 40 feet: \$25 flat.

1534 (c) A mobile home over 40 feet in length, but not exceeding
 1535 45 feet: \$30 flat.

1536 (d) A mobile home over 45 feet in length, but not exceeding
 1537 50 feet: \$35 flat.

596-02740-17 2017784c1

1538 (e) A mobile home over 50 feet in length, but not exceeding
 1539 55 feet: \$40 flat.

1540 (f) A mobile home over 55 feet in length, but not exceeding
 1541 60 feet: \$45 flat.

1542 (g) A mobile home over 60 feet in length, but not exceeding
 1543 65 feet: \$50 flat.

1544 (h) A mobile home over 65 feet in length: \$80 flat.

1545 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
 1546 motor vehicle dealer, independent motor vehicle dealer, marine
 1547 boat trailer dealer, or mobile home dealer and manufacturer
 1548 license plate: \$17 flat, of which \$4.50 shall be deposited into
 1549 the General Revenue Fund.

1550 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
 1551 official license plate: \$4 flat, of which \$1 shall be deposited
 1552 into the General Revenue Fund.

1553 (14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor
 1554 vehicle for hire operated wholly within a city or within 25
 1555 miles thereof: \$17 flat, of which \$4.50 shall be deposited into
 1556 the General Revenue Fund; plus \$2 per cwt, of which 50 cents
 1557 shall be deposited into the General Revenue Fund.

1558 (15) TRANSPORTER.—Any transporter license plate issued to a
 1559 transporter pursuant to s. 320.133: \$101.25 flat, of which
 1560 \$26.25 shall be deposited into the General Revenue Fund.

1561 Section 33. Subsection (1) of section 655.960, Florida
 1562 Statutes, is amended to read:

1563 655.960 Definitions; ss. 655.960-655.965.—As used in this
 1564 section and ss. 655.961-655.965, unless the context otherwise
 1565 requires:

1566 (1) "Access area" means any paved walkway or sidewalk which

596-02740-17

2017784c1

1567 is within 50 feet of any automated teller machine. The term does
1568 not include any street or highway open to the use of the public,
1569 as defined in s. 316.003(78)(a) or (b) ~~s. 316.003(77)(a) or (b)~~,
1570 including any adjacent sidewalk, as defined in s. 316.003.

1571 Section 34. This act shall take effect October 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 860

INTRODUCER: Regulated Industries Committee; Community Affairs Committee; and Senator Brandes and others

SUBJECT: Florida Building Code

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.	Kraemer	McSwain	RI	Fav/CS
3.	Davis	Hansen	AP	Pre-meeting
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 860 makes numerous changes to ch. 468, F.S., to address the shortage of building code inspectors and plans examiners.

Specifically, the bill creates an internship path for certification as a building code inspector or plans examiner.

The bill also requires the Florida Building Code Administrators and Inspectors Board to issue a provisional certificate to any building code inspector or plans examiner who meets certain eligibility requirements. Furthermore, a person may perform the duties of a plan examiner or building code inspector for 120 days if he or she submits a provisional certificate application and is under the direct supervision of a certified building code administrator. Under current law, the provisional certificate and the authorization to perform plan examiner and building code inspector duties may be issued only to newly employed or promoted building code inspectors and plans examiners.

The process by which revisions are made to the Florida Building Code is revised by the bill. Current law requires the Florida Building Commission (Commission) to revise the Florida Building Code every three years to automatically adopt the most recent versions of the International Code Council I-Codes (I-Codes) and the International Energy Conservation Code

(IECC) into the foundation of the Florida Building Code. Additionally, under current law, amendments and modifications to the Florida Building Code only remain in effect until the effective date of a new edition of the Florida Building Code.

Under the new process, the Commission will start with the current Florida Building Code and evaluate the changes made in the I-Codes and the IECC and adopt the changes the Commission deems appropriate. However, the Commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction. If amendments or modifications are made to the Florida Building Code, those amendments and modifications will be carried forward until the next edition of the Florida Building Code. The Florida Building Code updating process will remain on a three-year cycle.

The bill also requires the Commission to adopt the Florida Building Code by a three-fourths vote of the members present.

The bill has an insignificant fiscal impact to the Department of Business and Professional Regulation (DBPR), which can be handled with existing resources. *See* Section V, Fiscal Impact Statement.

The bill provides for an effective date of October 1, 2017.

II. Present Situation:

The Florida Building Code and the Florida Building Commission

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.¹

In 1996, a study commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and an enhanced oversight role for the state in local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002. In 2004, for the second edition of the Florida Building Code, the state adopted the International Code Council's I-Codes (I-Codes).² All subsequent Florida Building Codes have been adopted utilizing the I-Codes as the base code. The most recent Florida Building Code

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Mar. 24, 2017).

² The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." The ICC publishes I-Codes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All 50 states have adopted the I-Codes.

is the fifth edition, which is referred to as the 2014 Florida Building Code. The 2014 Florida Building Code went into effect June 30, 2015.³

The Florida Building Commission (Commission) was statutorily created to implement the Florida Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 27-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code.⁴ The Commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the Florida Building Code.⁵

Most substantive issues before the Commission are vetted through a workgroup process where consensus recommendations are developed and submitted by appointed representative stakeholder groups in an open process with several opportunities for public input.

According to the Commission,

General consensus is a participatory process whereby, on matters of substance, the members strive for agreements which all of the members can accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on substantive decisions, and the Commission finds that 100 percent acceptance or support is not achievable, final decisions require at least 75 percent favorable vote of all members present and voting.⁶

Building Code Cycle

Pursuant to s. 553.73(7)(a), F.S., the Commission must update the Florida Building Code every three years. When updating the Florida Building Code, the Commission is required to use the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, the International Residential Code, and the International Electrical Code. These I-Codes form the foundation codes of the updated Florida Building Code.

Any amendments or modifications to the foundation codes found within the Florida Building Code remain in effect only until the effective date of a new edition of the Florida Building Code, every three years.⁷ At that point, the amendments or modifications to the foundation codes are removed, unless the amendments or modifications are related to state agency regulations or are

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Mar. 24, 2017).

⁴ See <http://www.myfloridalicense.com/dbpr/bcs/buildingcomm.html> (last visited Mar. 24, 2017).

⁵ Section 553.74, F.S.

⁶ Florida Building Commission, Florida Building Commission Consensus-Building Process, *available at* http://www.floridabuilding.org/fbc/commission/FBC_0608/Commission/FBC_Discussion_and_Public_Input_Processes.htm (last visited Mar. 24, 2017).

⁷ Section 553.73(7)(g), F.S.

related to the wind-resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties, which are carried forward into the next edition of the Florida Building Code.

When a provision of the current Florida Building Code is not part of the foundation codes, an industry member or another interested party must resubmit the provision to the Commission during the Florida Building Code adoption process in order to be considered for the next edition of the Florida Building Code.⁸

Amendments between Cycles

Section 553.73(8), F.S., authorizes the Commission to approve amendments pursuant to the rule adoptions procedure in ch. 120, F.S., which are needed to address:

- Conflicts within the updated Florida Building Code;
- Conflicts between the updated Florida Building Code and the Florida Fire Prevention Code adopted pursuant to ch. 633, F.S.;
- Unintended results from the integration of the previously adopted Florida-specific amendments;
- Equivalency of standards;
- Changes to or inconsistencies with federal or state law; or
- Adoption of an updated edition of the National Electrical Code if the Commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

However, the Commission may not approve amendments that would weaken the construction requirements relating to wind resistance or the prevention of water intrusion.

The Commission may also approve technical amendments to the Florida Building Code once a year for statewide or regional application if the amendment:⁹

- Is needed in order to accommodate the specific needs of Florida.
- Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
- Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
- Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.
- Does not degrade the effectiveness of the Florida Building Code.

The 6th Edition of the Florida Building Code

The Commission is currently conducting its rule development process for the 6th edition of the Florida Building Code. Under s. 553.73(7)(e), F.S., a rule updating the Florida Building Code does not take effect until six months after the publication of the updated Florida Building Code.

⁸ Section 553.73(7)(g), F.S.

⁹ Section 553.73(9), F.S.

The 6th edition of the Florida Building Code is tentatively expected to go into effect on December 31, 2017.¹⁰

The 6th edition of the Florida Building Code will incorporate the latest version of the I-Codes (2015). The next edition of the I-Codes will be the 2018 I-Codes.

Voting Processes for the Technical Advisory Committees and the Commission

Under s. 553.73(3)(b), F.S., in order for a technical advisory committee to make a favorable recommendation to the Commission, the proposal must receive a three-fourths vote of the members present at the meeting, and at least half of the regular members must be present in order to conduct the meeting.

Rule 61G20-2.002(7), F.A.C., provides a similar requirement for votes taken by the Commission. Specifically, the rule provides that “[t]he decision of the Commission to approve a proposed amendment shall be by 75 percent vote. Those proposals failing to meet the vote requirement shall not be adopted.”

Building Code Administrators, Plans Examiners, and Inspectors Certifications

Building Code Inspector and Plans Examiner

In order to take the examination for building code inspector or plans examiner certification, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- **Option 1:** Demonstrate five years of combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.
- **Option 2:** Demonstrate four years of a combination of postsecondary education in the field of construction or a related field and experience, with at least one year of experience in construction, building code inspection, or plans review.
- **Option 3:** Demonstrate four years of a combination of technical education in the field of construction or a related field and experience, with at least one year of experience in construction, building code inspection, or plans review.
- **Option 4:** Currently hold a standard certificate as issued by the Florida Building Code Administrators and Inspectors Board (FBCAIB), or a fire safety inspector license issued pursuant to ch. 633, F.S.; have a minimum of three years of verifiable full-time experience in inspection or plan review; and satisfactorily complete an approved building code inspector or plans examiner training program of at least 100 hours but not more than 200 hours in the certification category sought.
- **Option 5:** Demonstrate a minimum of two years combined experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector, or construction; and the completion of an approved training program in the field of building code inspection or plan review of at least 200 hours but not more than

¹⁰ 6th Edition (2017) FBC Code Update Development Tasks, *available at* http://www.floridabuilding.org/fbc/thecode/2017_Code_Development/Timelines/FBC_WorkplanOption1-2015.pdf (Last visited March 14, 2017).

300 hours in the certification category sought, with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.

- Option 6: Currently hold a standard certificate issued by the FBCAIB or a firesafety inspector license if the person also:
 - Has at least five years of verifiable full-time experience as a building code inspector, plans examiner, or licensed firesafety inspector; and
 - Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides between 200 and 300 hours in the certification category sought, except for one-family and two-family dwelling training programs which are required to provide between 500 and 800 hours of training as prescribed by the FBCAIB.¹¹

The FBCAIB must accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program.¹²

Under s. 468.609(7), F.S., the FBCAIB is required to provide for the issuance of provisional one-year certificate for certain newly employed or promoted building code inspectors or plans examiners; and to provide appropriate levels of such provisional certificates.

Additionally, a newly employed or hired person may perform the duties of the plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted and the newly employed or hired person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found the person qualified for a provisional certificate.¹³

Building Code Administrator

In order to take the examination for building code administrator certification, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- Option 1: Demonstrate 10 years of combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least five years of experience in supervisory positions; or
- Option 2: Demonstrate 10 years of a combination of experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least five years of supervisory experience, and postsecondary education in the field of construction or related field, of which no more than five years may be applied. The individual must have also completed between 20 and 30 hours training in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.¹⁴

¹¹ Section 468.609(2), F.S.

¹² *Id.*

¹³ Section 468.609(7)(d), F.S.

¹⁴ Section 468.609(3), F.S.

Private Providers

Section 553.791(1)(i), F.S., defines “private provider” as a licensed engineer or a licensed architect who performs inspections on residential buildings in certain circumstances and, for additions and alterations under 1,000 square feet, the term also applies to individuals who hold a standard license under part XII of Chapter 468, F.S.

Private providers are authorized to contract with property owners and local building departments to conduct plans review and building code inspections.¹⁵

Construction Industry Workforce Task Force

Single-family building permit activity, an indicator of new construction, reached its peak in Florida in 2005. During the recent recession, new construction declined significantly, bottoming out in 2009. New construction has increased in recent years, but there are anecdotal reports that contractors are having a hard time finding skilled labor.

Because of the skilled labor shortage, the Legislature created the Construction Industry Workforce Task Force within the University of Florida M.E. Rinker, Sr., School of Construction Management in 2016.¹⁶ The goals of the task force were to:

- Address the critical shortage of individuals trained in building construction and inspection.
- Develop a consensus path for training the next generation of construction workers in the state.
- Determine the causes for the current shortage of a trained construction industry work force and address the impact of the shortages on the recovery of the real estate market.
- Review current methods and resources available for construction training.
- Review the state of construction training available in K-12 schools.
- Address training issues relating to building code inspectors to increase the number of qualified inspectors.

The task force consisted of 23 members, representing various construction industries and the Legislature. The task force elected a chair from among its members. The University of Florida M.E. Rinker, Sr., School of Construction Management was required to provide assistance to the task force in carrying out its responsibilities.

The task force submitted a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives in January 2017, which states that the construction and building profession is attracting fewer construction related workers.¹⁷ Florida requires five years of construction trade experience in order to obtain an inspector license.¹⁸ Given the stringent educational requirements, contractors often prefer working in the construction trades rather than becoming inspectors.

¹⁵ DBPR, Legislative Bill Analysis for SB 860, pp. 2-3, (March 9, 2017)

¹⁶ Chapter 2016-129, s. 31, Laws of Fla.

¹⁷ Florida Workforce Taskforce Report, prepared by the University of Florida, p. 12, available at <http://www.cce.ufl.edu/wp-content/uploads/2016/12/6-Florida-Construction-Workforce-Taskforce-Address-training-issues-among-building-code-inspectors-to-increase-the-number-qualified-1.pdf> (Taskforce Report)(last visited Mar. 24, 2017).

¹⁸ Section 468.609(2)(c)1., F.S.

In its final report, the taskforce recommended the development of the following initiatives:

- Creating an Alternative Internship Certification Program to the current standard qualifications;
- Adding residential inspector and plan examiner categories for all trades;
- Expanding the provisional and 120-day periods beyond newly hired or promoted staff;
- Authorizing interagency service agreement inspections and plan examination for standard certified building officials across jurisdictions with populations 50,000 or fewer;
- Having the FBCAIB streamline the application for certification process by providing for an electronic application process and combining the examination registration with the provisional application;
- Providing high school education guidance material for construction related careers;
- Supporting higher education code curriculum in engineering, architecture, and construction management degrees; and
- Comprehensively studying the compensation for building code compliance personnel.¹⁹

Construction Contracting

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state.²⁰ The CILB is divided into two divisions with separate jurisdictions:

- Division I is comprised of the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.

A specialty contractor is one whose scope of work and responsibility is limited to a particular phase of construction as detailed in an administrative rule adopted by the CILB. Jurisdiction is dependent on the scope of work and whether Division I or Division II has jurisdiction over such work in accordance with the applicable administrative rule.²¹

The CILB is authorized to:

- Reprimand or place licensees on probation;
- Revoke, suspend, or deny the issuance or renewal of a certificate or registration;

¹⁹ See the Taskforce Report, *supra* note 17 at page 14.

²⁰ See s. 489.107, F.S.

²¹ For example, specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays. See Fla. Admin. Code R. 61G4-15.032 (2016).

- Require financial restitution to a consumer for financial harm directly related to a violation;
- Impose an administrative fine not to exceed \$10,000 per violation;
- Require continuing education; or
- Assess costs associated with investigation and prosecution.²²

Pool/Spa Contractors

Three types of pool/spa contractors may be licensed in Florida, including commercial pool/spa contractors, residential pool contractors, and swimming pool/spa servicing contractors.²³ Each type of contractor may engage in the scope of work specified s. 489.105(3), F.S., as follows:

- For commercial pool/spa contractors, the scope of work involves, but is not limited to, the *construction, repair, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use.*²⁴
- For residential pool/spa contractors, the scope of work involves, but is not limited to, the *construction, repair, and servicing of a residential swimming pool, or hot tub or spa, regardless of use.*²⁵
- For swimming pool/spa servicing contractors means a contractor whose scope of work involves, but is not limited to, the *repair and servicing of a swimming pool, or hot tub or spa, whether public or private, or otherwise, regardless of use.*²⁶

²² See s. 489.129(1)(a) - (q), F.S., for the acts that may result in the imposition of discipline by the CILB.

²³ See ss. 489.105(3)(j), (k), and (l), F.S.

²⁴ The scope of work for commercial pool/spa contractors also includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(j), F.S.

²⁵ The scope of work for residential pool/spa contractors also includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(k), F.S.

²⁶ The scope of work includes the repair or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior refinishing, the reinstallation or addition of pool heaters, the repair or replacement of all perimeter piping and filter piping, the repair of equipment rooms or housing for pool/spa equipment, and the substantial or complete draining of a swimming pool, or hot tub or spa, for the purpose of repair or renovation. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, substantial or complete disassembly, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure *unless the usage involves construction, modification, substantial or*

A license is not required for the cleaning of a pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

Specialty Swimming Pool Contractors

Specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays, including:

- Swimming Pool Layout Specialty Contractors are limited to the layout, shaping, steel installation, and rough piping;
- Swimming Pool Structural Specialty Contractors are limited to the shaping and shooting of gunite, shotcrete, concrete, or similar product mix, and installation of fiberglass shells and vinyl liners);
- Swimming Pool Excavation Specialty Contractors are limited to excavation and earthmoving);
- Swimming Pool Trim Specialty Contractors are limited to the installation of tile and coping, and decorative or interactive water displays or areas that use recirculated water, including waterfalls and spray nozzles;
- Swimming Pool Decking Specialty Contractors are limited to the construction and installation of concrete flatwork, pavers and bricks, retaining walls, and footings;
- Swimming Pool Piping Specialty Contractors are limited to the installation of piping or the installation of circulating, filtering, disinfecting, controlling, or monitoring equipment and devices for pools, spas, hot tubs, and decorative or interactive water displays or areas; and
- Swimming Pool Finishes Specialty Contractors are limited to the coating or plastering of the interior surfaces.²⁷

III. Effect of Proposed Changes:

Section 1 reorders and amends s. 468.603, F.S. to revise the terms “building code administrator” or “building official” to include any person under contract with a municipal or county government with specified building construction regulation responsibilities. One person employed or under contract by each municipal or county government as a certified building code administrator or building official may be authorized to perform any plan review or inspection.

The term “building code inspector” is revised to include any person under contract with a local government or state agency with specified building construction responsibilities.

The term “residential plans examiner” is created to mean a person who is qualified to determine whether plans submitted for purposes of obtaining building and other permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other construction codes.

According to the Department of Business and Professional Regulation (DBPR), the bill will replace the existing voluntary category for one- and two-family dwelling plans examiners set

complete disassembly, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(l), F.S.

²⁷ See Fla. Admin. Code R. 61G4-15.032 (2016).

forth in Rule 61G19-6.016(6), F.A.C., with a residential plans examiner license.²⁸ The DBPR anticipates that the majority of residential plans examiner licenses will be issued to individuals working for governments.²⁹

Section 2 amends s. 468.609(2), F.S., to provide an additional internship path for persons to become eligible to take the examination for certification as a building code inspector or plans examiner.

A person who completes an inspector or plans examiner internship certification program that includes all of the following requirements will be eligible to take the examination:

- Passing an International Code Council (ICC) administered examination in the category sought before beginning a four-year internship while employed full time by a Florida municipality, county, or other governmental jurisdiction under the direct supervision of a standard certified, government employed, sponsoring building official. A related vocational or college degree attained or verifiable on-the-job experience may reduce the required internship period year-for-year, but it may not be reduced to less than one year.
- Passing the Florida Principles and Practice exam before completing the internship period.
- Passing a Florida Building Code Administrators and Inspectors Board (FBCAIB) approved 40-hour code training in the category sought before completing the internship period.
- Obtaining a favorable recommendation from the sponsoring building official after completing the internship period.

The bill also requires the Florida Building Code Administrators and Inspectors Board (FBCAIB) to provide for the issuance of a provisional certificate, valid for one year, to any building code inspector or plans examiner (newly employed or not) who meets the eligibility requirements in s. 468.609(2), F.S., as revised by the bill. Under current law, a person may perform the duties of a plan examiner or building code inspector for 120 days if the person submits a provisional certificate application and is under the direct supervision of a certified building code administrator who holds a standard certification and has found the person qualified for a provisional certificate. At present, the provisional certificate is available only for newly employed or promoted building code inspectors and plans examiners.

The FBCAIB must by rule:

- Establish a procedure to determine reciprocity for an examination administered by another state. According to DBPR, the FBCAIB already recognizes ICC administered examinations regardless of where they were taken and passed.³⁰
- Authorize candidates for the inspector or plans examiner internship program under s. 468.609(2)(c)7., F.S., to:
 - Perform duties during the first 120 days after initial application submittal to the FBCAIB.
 - Apply for a one-year provisional certificate before completing the internship period if the candidate has not passed the Florida Principles and Practice exam or 40-hour code training course.

²⁸ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 860, dated Mar. 9, 2017, (on file with Senate Committee on Regulated Industries) at page 5.

²⁹ *Id.*

³⁰ *Id.*

- Apply for a standard certification at least 30 days but not more than 60 days before completing the internship period.
- Develop a form to authorize candidates for the inspector or plans examiner internship program to transfer approved partial internship periods completed in other jurisdictions.
- Develop an electronic application for standard certification of interns who successfully complete the inspector or plans examiner internship program.
- Establish minimum standards for, and a procedure to determine the eligibility of, internships for candidates to obtain certification under the inspector or plans examiner internship program.

After achieving initial standard certification, a person may seek additional certifications in other categories by completing additional noncurrent internship programs when passing an ICC examination, passing a FBCAIB approved 40-hour code training, and completing an additional one-year, full-time internship in the respective category sought. Any person holding a standard certification may seek additional certifications.

Section 3 amends s. 468.617, F.S., to provide that a county or municipal government, school board, community college board, state university, or state agency is not prohibited from entering into a contract with any person or entity for the provision of building code administrator or building code official services. Under current law, such local governments were authorized to enter into a contract for building code inspection services only.

Section 4 amends s. 468.8313, F.S., to provide that the DBPR may review and approve home inspectors exams by a nationally recognized entity. However, the examinations must meet the standards defined by rule and certified by the DBPR in order to be approved.

Section 5 amends s. 489.113(3), F.S., to provide that pool/spa contractors are not required to subcontract electrical work for the installation, replacement, disconnection, or reconnection of power wiring on the load side of the dedicated existing electrical disconnecting work. Current law requires that unless a contractor holds a state certificate or registration in a trade category, all electrical work must be subcontracted (as must all mechanical, plumbing, roofing, sheet metal, swimming pool, and air-conditioning work). Pool/spa contractors, however would continue to be required to subcontract all electrical work that requires the installation, removal, replacement, or upgrading of a circuit breaker. The bill provides that the revised subcontracting requirement for pool/spa contractors does not apply to other contractor classifications or professions.

Section 6 amends s. 553.73, F.S., to require the Florida Building Commission (Commission0 to use the 6th edition of the Florida Building Code, and subsequent editions, as the foundation for the Florida Building Code. The Commission is required to consider whether the Florida Building Code needs to be revised and to adopt code revisions by rule. When evaluating potential revisions to the Florida Building Code, the Commission must review, rather than automatically adopt, the International Code Council I-Codes (I-Codes) every three years. The Commission also must review the International Energy Conservation Code; however, the Commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction pursuant to s. 553.901, F.S.

Amendments and modifications, other than local amendments under s. 553.73(4), F.S., to the Florida Building Code will now remain effective when a new edition of the Florida Building Code is published.

The bill removes references to Florida-specific amendments because the entire building code will now be Florida-specific. The bill also makes other conforming and clarifying changes in terminology.

Section 7 amends s. 553.76, F.S., to require the Commission to adopt the Florida Building Code, and amendments thereto, by a three-fourths vote of the members present at a meeting.

Section 8 amends s. 553.791, F.S., to expand the definition of the term “private provider” to include a person licensed as a building code administrator under part XII of ch. 468, F.S. As a result, building code administrators are now authorized to contract with property owners and local building departments to conduct plans review and building code inspections.

Sections 9 and 10 amend ss. 471.045 and 481.222, F.S., respectively, to conform cross-references.

Section 10 provides an effective date of October 1, 2017.

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:

Article III, s. 6 of the State Constitution requires that a bill must pertain to a single subject that is briefly stated in the bill’s title. Courts have interpreted this to mean that all provisions of a bill must be “properly connected” to the subject of the bill in a “natural or logical” way.

The bill contains provisions dealing with the regulation of pool/spa contractors and the circumstances in which certain electrical work may or may not be subcontracted by such contractors. The relating to clause in CS/CS/SB 830 provides that the bill relates to the “Florida Building Code.” The single subject clause may be implicated as to whether the regulation of pool/spa contractors has a “natural and logical” connection.

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

None.

B. Private Sector Impact:

Under the bill, builders and building code officials may benefit from the increased continuity of the Florida Building Code and increased transparency of the code adoption process.

The Department of Business and Professional Regulation (DBPR) noted, “not adopting the international model codes/standards, as the foundation code, could lead to a gap between national construction standards and those used in Florida, which could impact insurance rates in Florida.”³¹

The bill requires competency exams for home inspectors to meet the standards of a national examination as defined by rule and certified by the DBPR. Currently approved exams, as well as any future examinations considered for licensure, will need to be evaluated to determine if they meet this more stringent requirement. According to the DBPR, “national examination requirements are complex, so the costs to the examination providers may be substantial and could result in increased examination costs paid by candidates and licensees.”³²

C. Government Sector Impact:

The bill will require the DBPR to make several modifications to its Versa: Regulation and Versa: Online systems in order to implement the internship programs for building code inspectors and plans examiners.³³ The bill may also require changes to OnBase routing. However, the DBPR states that these changes can be made using existing resources.

The Florida Building Commission will have to review each change to the International Code Council I-Codes and the International Energy Conservation Code individually rather than approving wholesale changes to the Florida Building Code. However, the DBPR stated the changes in the bill could be accomplished with current resources.³⁴

VI. Technical Deficiencies:

None.

³¹ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for CS/CS/SB 860, dated April 17, 2017 (on file with Senate Appropriations Subcommittee on General Government) at page 7.

³² *Id.* at page 8.

³³ *Id.*

³⁴ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SPB 7000, dated January 23, 2017 (on file with Senate Appropriations Subcommittee on General Government) at page 3.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.603, 468.609, 468.617, 468.8313, 489.113, 553.73, 553.76, 553.791, 471.045, and 481.222.

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

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

CS/CS by Regulated Industries on March 28, 2017:

The committee substitute amends s. 489.113(3), F.S., to:

- Remove the requirement for pool/spa contractors to subcontract electrical work for the installation, replacement, disconnection, or reconnection of power wiring in certain circumstances;
- Require pool/spa contractors to subcontract all electrical work that requires the installation, removal, replacement, or upgrading of a circuit breaker; and
- Provide that the revised subcontracting requirement for pool/spa contractors does not apply to other contractor classifications or professions.

CS by Community Affairs on March 14, 2017:

- Revises the terms “building code administrator,” “building official” and “building code inspector” to include persons under contract with the local government or state agency, in addition to employees of the local government or state agency. Current law states that these positions had to be employees of the government or agency.
- Removes a provision which authorized certain municipal or county employees to perform plan review or inspection as a certified building official under an interagency service agreement with a jurisdiction of population 50,000 or fewer.
- Requires the FBCAIB to establish minimum standards for, and a procedure to determine the eligibility of, internships for specified candidates.
- Clarifies that the DBPR may review and approve home inspector examinations by a nationally recognized entity only if those examinations meet the rule and certification standards of the DBPR.
- Changes the effective date of the bill from July 1, 2017, to October 1, 2017.
- Adds a provision that changes the process by which revisions are made to the Florida Building Code and requires the Commission to adopt the Florida Building Code by a three-fourth vote of the members present.

B. Amendments:

None.



889626

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 468.603, Florida Statutes, is amended to
read:

468.603 Definitions.—As used in this part:

(2)~~(1)~~ "Building code administrator" or "building official"
means any of those employees of municipal or county governments,
or any person contracted, with building construction regulation



889626

responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance. This term is synonymous with "building official" as used in the ~~administrative chapter of the Standard Building Code and the South Florida Building Code~~. One person employed or contracted by each municipal or county government as a building code administrator or building official and who is so certified under this part may be authorized to perform any plan review or inspection for which certification is required by this part, including performing any plan review or inspection as a currently designated standard certified building official under an interagency service agreement with a jurisdiction having a population of 50,000 or less.

(4)-(2) "Building code inspector" means any of those employees of local governments or state agencies, or any person contracted, with building construction regulation responsibilities who themselves conduct inspections of building construction, erection, repair, addition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance.

(1)-(3) "Board" means the Florida Building Code



889626

Administrators and Inspectors Board.

(7)~~(4)~~ "Department" means the Department of Business and Professional Regulation.

(6)~~(5)~~ "Certificate" means a certificate of qualification issued by the department as provided in this part.

(5)~~(6)~~ "Categories of building code inspectors" include the following:

(a) "Building inspector" means a person who is qualified to inspect and determine that buildings and structures are constructed in accordance with the provisions of the governing building codes and state accessibility laws.

(b) "Coastal construction inspector" means a person who is qualified to inspect and determine that buildings and structures are constructed to resist near-hurricane and hurricane velocity winds in accordance with the provisions of the governing building code.

(c) "Commercial electrical inspector" means a person who is qualified to inspect and determine the electrical safety of commercial buildings and structures by inspecting for compliance with the provisions of the National Electrical Code.

(h)~~(d)~~ "Residential electrical inspector" means a person who is qualified to inspect and determine the electrical safety of one and two family dwellings and accessory structures by inspecting for compliance with the applicable provisions of the governing electrical code.

(e) "Mechanical inspector" means a person who is qualified to inspect and determine that the mechanical installations and systems for buildings and structures are in compliance with the provisions of the governing mechanical code.



889626

69 (g)~~(f)~~ "Plumbing inspector" means a person who is qualified
70 to inspect and determine that the plumbing installations and
71 systems for buildings and structures are in compliance with the
72 provisions of the governing plumbing code.

73 (f)~~(g)~~ "One and two family dwelling inspector" means a
74 person who is qualified to inspect and determine that one and
75 two family dwellings and accessory structures are constructed in
76 accordance with the provisions of the governing building,
77 plumbing, mechanical, accessibility, and electrical codes.

78 (d)~~(h)~~ "Electrical inspector" means a person who is
79 qualified to inspect and determine the electrical safety of
80 commercial and residential buildings and accessory structures by
81 inspecting for compliance with the provisions of the National
82 Electrical Code.

83 (8)~~(7)~~ "Plans examiner" means a person who is qualified to
84 determine that plans submitted for purposes of obtaining
85 building and other permits comply with the applicable building,
86 plumbing, mechanical, electrical, gas, fire prevention, energy,
87 accessibility, and other applicable construction codes. The term
88 includes a residential plans examiner who is qualified to
89 determine that plans submitted for purposes of obtaining
90 building and other permits comply with the applicable
91 residential building, plumbing, mechanical, electrical, gas,
92 energy, accessibility, and other applicable construction codes.

93 Categories of plans examiners include:

- 94 (a) Building plans examiner.
- 95 (b) Plumbing plans examiner.
- 96 (c) Mechanical plans examiner.
- 97 (d) Electrical plans examiner.



889626

98 (3)~~(8)~~ "Building code enforcement official" or "enforcement
99 official" means a licensed building code administrator, building
100 code inspector, or plans examiner.

101 Section 2. Paragraph (c) of subsection (2), paragraphs (a)
102 and (d) of subsection (7), and subsection (10) of section
103 468.609, Florida Statutes, are amended to read:

104 468.609 Administration of this part; standards for
105 certification; additional categories of certification.—

106 (2) A person may take the examination for certification as
107 a building code inspector or plans examiner pursuant to this
108 part if the person:

109 (c) Meets eligibility requirements according to one of the
110 following criteria:

111 1. Demonstrates 5 years' combined experience in the field
112 of construction or a related field, building code inspection, or
113 plans review corresponding to the certification category sought;

114 2. Demonstrates a combination of postsecondary education in
115 the field of construction or a related field and experience
116 which totals 4 years, with at least 1 year of such total being
117 experience in construction, building code inspection, or plans
118 review;

119 3. Demonstrates a combination of technical education in the
120 field of construction or a related field and experience which
121 totals 4 years, with at least 1 year of such total being
122 experience in construction, building code inspection, or plans
123 review;

124 4. Currently holds a standard certificate issued by the
125 board or a firesafety inspector license issued pursuant to
126 chapter 633, has a minimum of 3 years' verifiable full-time



889626

experience in inspection or plan review, and has satisfactorily completed a building code inspector or plans examiner training program that provides at least 100 hours but not more than 200 hours of cross-training in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs. The board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program;

5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector certified under s. 633.216, or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program that provides at least 200 hours but not more than 300 hours of cross-training that is approved by the board in the chosen category of building code inspection or plan review in the certification category sought with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program. However, the board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom



889626

component of the training program; ~~or~~

6. Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to chapter 633 and:

a. Has at least 5 years' verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of 5 years' verifiable full-time experience as a firesafety inspector licensed pursuant to chapter 633.

b. Has satisfactorily completed a building code inspector or plans examiner classroom training course or program that provides at least 200 but not more than 300 hours in the certification category sought, except for one-family and two-family dwelling training programs, which must provide at least 500 but not more than 800 hours of training as prescribed by the board. The board shall establish by rule criteria for the development and implementation of classroom training courses and programs in each certification category; or

7.a. Has completed a 4-year internship certification program as a building code inspector or plans examiner while employed full-time by a municipality, county, or other governmental jurisdiction, under the direct supervision of a certified building official. Proof of graduation with a related vocational degree or college degree or of verifiable work experience may be exchanged for the internship experience requirement year-for-year, but may reduce the requirement to no less than 1 year.

b. Has passed an examination administered by the International Code Council in the certification category sought.



889626

Such examination must be passed before beginning the internship certification program.

c. Has passed the principles and practice examination before completing the internship certification program.

d. Has passed a board-approved 40-hour code training course in the certification category sought before completing the internship certification program.

e. Has obtained a favorable recommendation from the supervising building official after completion of the internship certification program.

(7)(a) The board shall provide for the issuance of provisional certificates valid for 1 year, as specified by board rule, to any ~~newly employed or promoted~~ building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3). The provisional license may be renewed by the board for just cause; however, a provisional license is not valid for longer than 3 years.

(d) A ~~newly employed or hired~~ person may perform the duties of a plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted if such person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found such person qualified for a provisional certificate. Direct supervision and the determination of qualifications may also be provided by a building code administrator who holds a limited or provisional certificate in a county having a population of fewer than 75,000 and in a municipality located



889626

within such county.

(10) (a) The board may by rule create categories of certification in addition to those defined in s. 468.603(5) and (8) ~~468.603(6) and (7)~~. Such certification categories shall not be mandatory and shall not act to diminish the scope of any certificate created by statute.

(b) The board shall by rule establish:

1. Reciprocity of certification with any other state that requires an examination administered by the International Code Council.

2. That an applicant for certification as a building code inspector or plans examiner may apply for a provisional certificate valid for the duration of the internship period.

3. That partial completion of an internship program may be transferred between jurisdictions on a form prescribed by the board.

4. That an applicant may apply for a standard certificate on a form prescribed by the board upon successful completion of an internship certification program.

5. That an applicant may apply for a standard certificate at least 30 days and no more than 60 days before completing the internship certification program.

6. That a building code inspector or plans examiner who has standard certification may seek an additional certification in another category by completing an additional nonconcurrent 1-year internship program in the certification category sought and passing an examination administered by the International Code Council and a board-approved 40-hour code training course.

Section 3. Subsection (3) of section 468.617, Florida



889626

Statutes, is amended to read:

468.617 Joint building code inspection department; other arrangements.—

(3) Nothing in this part shall prohibit any county or municipal government, school board, community college board, state university, or state agency from entering into any contract with any person or entity for the provision of building code administrator, building official, or building code inspection services regulated under this part, and notwithstanding any other statutory provision, such county or municipal governments may enter into contracts.

Section 4. Paragraphs (d) and (i) of subsection (1) of section 553.791, Florida Statutes, are amended to read:

553.791 Alternative plans review and inspection.—

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

(d) "Building code inspection services" means those services described in s. 468.603(5) and (8) ~~468.603(6) and (7)~~ involving the review of building plans to determine compliance with applicable codes and those inspections required by law of each phase of construction for which permitting by a local enforcement agency is required to determine compliance with applicable codes.

(i) "Private provider" means a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private provider" also includes a person who holds a standard



889626

certificate under part XII of chapter 468.

Section 5. Subsection (10) of section 468.609, Florida Statutes, is amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(10) The board may by rule create categories of certification in addition to those defined in s. 468.603(5) and (8) ~~468.603(6) and (7)~~. Such certification categories shall not be mandatory and shall not act to diminish the scope of any certificate created by statute.

Section 6. Section 471.045, Florida Statutes, is amended to read:

471.045 Professional engineers performing building code inspector duties.—Notwithstanding any other provision of law, a person who is currently licensed under this chapter to practice as a professional engineer may provide building code inspection services described in s. 468.603(5) and (8) ~~468.603(6) and (7)~~ to a local government or state agency upon its request, without being certified by the Florida Building Code Administrators and Inspectors Board under part XII of chapter 468. When performing these building code inspection services, the professional engineer is subject to the disciplinary guidelines of this chapter and s. 468.621(1)(c)–(h). Any complaint processing, investigation, and discipline that arise out of a professional engineer's performing building code inspection services shall be conducted by the Board of Professional Engineers rather than the Florida Building Code Administrators and Inspectors Board. A professional engineer may not perform plans review as an employee of a local government upon any job that the



889626

professional engineer or the professional engineer's company
designed.

Section 7. Section 481.222, Florida Statutes, is amended to
read:

481.222 Architects performing building code inspection
services.—Notwithstanding any other provision of law, a person
who is currently licensed to practice as an architect under this
part may provide building code inspection services described in
s. 468.603(5) and (8) ~~468.603(6) and (7)~~ to a local government
or state agency upon its request, without being certified by the
Florida Building Code Administrators and Inspectors Board under
part XII of chapter 468. With respect to the performance of such
building code inspection services, the architect is subject to
the disciplinary guidelines of this part and s. 468.621(1)(c)–
(h). Any complaint processing, investigation, and discipline
that arise out of an architect's performance of building code
inspection services shall be conducted by the Board of
Architecture and Interior Design rather than the Florida
Building Code Administrators and Inspectors Board. An architect
may not perform plans review as an employee of a local
government upon any job that the architect or the architect's
company designed.

Section 8. This act shall take effect July 1, 2017.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled



889626

An act relating to building code administrators and inspectors; amending s. 468.603, F.S.; revising definitions; amending s. 468.609, F.S.; revising eligibility requirements for the examination for certification as a building code inspector or plans examiner to include an internship certification program; removing an eligibility condition from provisions related to provisional certificates; requiring the Florida Building Code Administrators and Inspectors Board to establish rules; amending s. 468.617, F.S.; authorizing specified entities to contract for the provision of building code administrator and building official services; amending s. 553.791, F.S.; conforming provisions to changes made by the act; revising a definition; amending ss. 468.609, 471.045, and 481.222; conforming cross-references; providing an effective date.

By the Committees on Regulated Industries; and Community Affairs; and Senators Brandes and Lee

580-02981-17

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1 A bill to be entitled
 2 An act relating to the Florida Building Code; amending
 3 s. 468.603, F.S.; revising and defining terms;
 4 amending s. 468.609, F.S.; creating an internship path
 5 to certification as an inspector or plans examiner;
 6 specifying requirements for the internship periods;
 7 requiring the board to authorize specified candidates
 8 for certification as building code inspectors or plans
 9 examiners to perform duties during a specified period
 10 after initial application, to apply for a 1-year
 11 provisional certificate under certain circumstances,
 12 and to apply for standard certification within a
 13 certain time before completing the internship period;
 14 deleting being newly hired or promoted as a condition
 15 for eligibility to qualify for a provisional
 16 certificate; requiring rulemaking; requiring the board
 17 to develop a form to transfer internship periods
 18 completed in other jurisdictions under certain
 19 circumstances; requiring the board to develop an
 20 electronic application for standard certification for
 21 certain persons; authorizing persons to seek
 22 additional certifications if they meet certain
 23 requirements; conforming cross-references; amending s.
 24 468.617, F.S.; specifying that a county or municipal
 25 government, school board, community college board,
 26 state university, or state agency is not prohibited
 27 from entering into a contract for the services of a
 28 building code administrator or building code official;
 29 amending s. 468.8313, F.S.; providing conditions for

Page 1 of 22

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580-02981-17

2017860c2

30 the department to review and approve certain
 31 examinations; amending s. 489.113, F.S.; providing
 32 that specified pool/spa contractors are not required
 33 to subcontract certain work relating to power wiring;
 34 requiring such contractors to subcontract all work
 35 requiring the installation, removal, replacement, or
 36 upgrading of a circuit breaker; providing
 37 applicability; amending s. 553.73, F.S.; requiring the
 38 Florida Building Commission to use the 6th and
 39 subsequent editions of the Florida Building Code as
 40 the foundation for the development of and updates to
 41 the code; requiring the commission to review, rather
 42 than update, the Florida Building Code every 3 years;
 43 deleting a provision that specifies how long
 44 amendments or modifications to the foundation remain
 45 effective; deleting provisions limiting the length of
 46 time that an amendment or modification is effective;
 47 deleting a provision requiring certain amendments or
 48 modifications to be carried forward into the next
 49 edition of the code, subject to certain conditions;
 50 deleting certain requirements for the resubmission of
 51 expired amendments; deleting a provision prohibiting a
 52 proposed amendment from being included in the
 53 foundation code if it has been addressed in the
 54 international code; conforming provisions to changes
 55 made by the act; amending s. 553.76, F.S.; requiring
 56 the commission to adopt the Florida Building Code, and
 57 amendments thereto, by a minimum percentage of votes;
 58 amending s. 553.791, F.S.; revising the definition of

Page 2 of 22

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580-02981-17

2017860c2

the term "private provider"; conforming cross-references; amending ss. 471.045 and 481.222, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 468.603, Florida Statutes, is reordered and amended to read:

468.603 Definitions.—As used in this part:

(2)(4) "Building code administrator" or "building official" means any of those employees of municipal or county governments or any person under contract with building construction regulation responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance. This term is synonymous with "building official" as used in ~~the administrative chapter of the Standard Building Code~~ and the South Florida Building Code. One person employed or under contract by each municipal or county government as a building code administrator or building official and who is so certified under this part may be authorized to perform any plan review or inspection for which certification is required by this part.

580-02981-17

2017860c2

(4)(2) "Building code inspector" means any of those employees of local governments or state agencies or any person under contract with building construction regulation responsibilities who themselves conduct inspections of building construction, erection, repair, addition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance.

(1)(3) "Board" means the Florida Building Code Administrators and Inspectors Board.

(7)(4) "Department" means the Department of Business and Professional Regulation.

(6)(5) "Certificate" means a certificate of qualification issued by the department as provided in this part.

(5)(6) "Categories of building code inspectors" include the following:

(a) "Building inspector" means a person who is qualified to inspect and determine that buildings and structures are constructed in accordance with the provisions of the governing building codes and state accessibility laws.

(b) "Coastal construction inspector" means a person who is qualified to inspect and determine that buildings and structures are constructed to resist near-hurricane and hurricane velocity winds in accordance with the provisions of the governing building code.

(c) "Commercial electrical inspector" means a person who is qualified to inspect and determine the electrical safety of commercial buildings and structures by inspecting for compliance

580-02981-17

2017860c2

with the provisions of the National Electrical Code.

(d) "Residential electrical inspector" means a person who is qualified to inspect and determine the electrical safety of one and two family dwellings and accessory structures by inspecting for compliance with the applicable provisions of the governing electrical code.

(e) "Mechanical inspector" means a person who is qualified to inspect and determine that the mechanical installations and systems for buildings and structures are in compliance with the provisions of the governing mechanical code.

(f) "Plumbing inspector" means a person who is qualified to inspect and determine that the plumbing installations and systems for buildings and structures are in compliance with the provisions of the governing plumbing code.

(g) "One and two family dwelling inspector" means a person who is qualified to inspect and determine that one and two family dwellings and accessory structures are constructed in accordance with the provisions of the governing building, plumbing, mechanical, accessibility, and electrical codes.

(h) "Electrical inspector" means a person who is qualified to inspect and determine the electrical safety of commercial and residential buildings and accessory structures by inspecting for compliance with the provisions of the National Electrical Code.

~~(8)(7)~~ "Plans examiner" means a person who is qualified to determine that plans submitted for purposes of obtaining building and other permits comply with the applicable building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other applicable construction codes.

Categories of plans examiners include:

Page 5 of 22

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580-02981-17

2017860c2

(a) Building plans examiner.

(b) Plumbing plans examiner.

(c) Mechanical plans examiner.

(d) Electrical plans examiner.

~~(3)(8)~~ "Building code enforcement official" or "enforcement official" means a licensed building code administrator, building code inspector, or plans examiner.

(9) "Residential plans examiner" means a person who is qualified to determine whether plans submitted for purposes of obtaining building and other permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other construction codes.

Section 2. Paragraph (c) of subsection (2), paragraphs (a) and (d) of subsection (7), and subsection (10) of section 468.609, Florida Statutes, are amended, and subsections (11) and (12) are added to that section, to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(2) A person may take the examination for certification as a building code inspector or plans examiner pursuant to this part if the person:

(c) Meets eligibility requirements according to one of the following criteria:

1. Demonstrates 5 years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought;

2. Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being

Page 6 of 22

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580-02981-17

2017860c2

experience in construction, building code inspection, or plans review;

3. Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

4. Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to chapter 633, has a minimum of 3 years' verifiable full-time experience in inspection or plan review, and has satisfactorily completed a building code inspector or plans examiner training program that provides at least 100 hours but not more than 200 hours of cross-training in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs. The board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program;

5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector certified under s. 633.216, or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program that provides at least 200 hours but not more than 300 hours of cross-training that is approved by the board in the

580-02981-17

2017860c2

chosen category of building code inspection or plan review in the certification category sought with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program. However, the board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program; ~~or~~

6. Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to chapter 633 and:

a. Has at least 5 years' verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of 5 years' verifiable full-time experience as a firesafety inspector licensed pursuant to chapter 633.

b. Has satisfactorily completed a building code inspector or plans examiner classroom training course or program that provides at least 200 but not more than 300 hours in the certification category sought, except for one-family and two-family dwelling training programs, which must provide at least 500 but not more than 800 hours of training as prescribed by the board. The board shall establish by rule criteria for the development and implementation of classroom training courses and programs in each certification category; or-

7. Completes an inspector or plans examiner internship

580-02981-17

2017860c2

certification program that includes all of the following:

a. Passing an International Code Council (ICC) administered examination in the category sought before beginning a 4-year internship while employed full time by a Florida municipality, county, or other governmental jurisdiction under the direct supervision of a standard certified, government employed, sponsoring building official. A related vocational or college degree attained or verifiable on-the-job experience may reduce the internship period year-for-year to no less than 1 year.

b. Passing the Florida Principles and Practice exam before completing the internship period.

c. Passing a board-approved 40-hour code training course in the category sought before completing the internship period.

d. Obtaining a favorable recommendation from the sponsoring building official upon completion of the internship period.

(7) (a) The board shall provide for the issuance of provisional certificates valid for 1 year, as specified by board rule, to any ~~newly employed or promoted~~ building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3). The provisional license may be renewed by the board for just cause; however, a provisional license is not valid for longer than 3 years.

(d) A ~~newly employed or hired~~ person may perform the duties of a plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted if such person is under the direct supervision of a certified building code administrator who holds a standard certification and who

580-02981-17

2017860c2

has found such person qualified for a provisional certificate. Direct supervision and the determination of qualifications may also be provided by a building code administrator who holds a limited or provisional certificate in a county having a population of fewer than 75,000 and in a municipality located within such county.

(10) The board may by rule create categories of certification in addition to those defined in s. 468.603(5) ~~or 468.603(6)~~ and (8) (7). Such certification categories shall not be mandatory and shall not act to diminish the scope of any certificate created by statute.

(11) The board shall by rule:

(a) Establish a procedure to determine reciprocity for an ICC examination administered by another state.

(b) Authorize candidates under subparagraph (2) (c) 7. to:

1. Perform duties during the first 120 days after initial application submittal to the board.

2. Apply for a 1-year provisional certificate before completing the internship period if the candidate has not passed the Florida Principles and Practice exam or 40-hour code training course.

3. Apply for standard certification at least 30 days but not more than 60 days before completing the internship period.

(c) Develop a form to authorize candidates under subparagraph (2) (c) 7. to transfer approved partial internship periods completed in other jurisdictions.

(d) Develop an electronic application for standard certification of interns who successfully complete the program described in subparagraph (2) (c) 7.

580-02981-17

2017860c2

291 (e) Establish minimum standards for, and a procedure to
 292 determine the eligibility of, internships for candidates to
 293 obtain certification under subparagraph (2)(c)7.

294 (12) After achieving initial standard certification, a
 295 person may seek additional certifications in other categories by
 296 completing additional nonconcurrent internship programs when
 297 passing an ICC examination, passing a board-approved 40-hour
 298 code training course, and completing an additional 1-year, full-
 299 time internship in the respective category sought. Any person
 300 holding a standard certification may seek additional
 301 certifications.

302 Section 3. Subsection (3) of section 468.617, Florida
 303 Statutes, is amended to read:

304 468.617 Joint building code inspection department; other
 305 arrangements.—

306 (3) Nothing in this part shall prohibit any county or
 307 municipal government, school board, community college board,
 308 state university, or state agency from entering into any
 309 contract with any person or entity for the provision of building
 310 code administrator, building code official, or building code
 311 inspection services regulated under this part, and
 312 notwithstanding any other statutory provision, such county or
 313 municipal governments may enter into contracts.

314 Section 4. Subsection (4) of section 468.8313, Florida
 315 Statutes, is amended to read:

316 468.8313 Examinations.—

317 (4) The department may review and approve examinations by a
 318 nationally recognized entity that offers programs or sets
 319 standards that ensure competence as a home inspector, provided

580-02981-17

2017860c2

320 that only examinations meeting the standards of a national
 321 examination as defined by rule and certified by the department
 322 may be approved.

323 Section 5. Paragraph (h) is added to subsection (3) of
 324 section 489.113, Florida Statutes, to read:

325 489.113 Qualifications for practice; restrictions.—

326 (3) A contractor shall subcontract all electrical,
 327 mechanical, plumbing, roofing, sheet metal, swimming pool, and
 328 air-conditioning work, unless such contractor holds a state
 329 certificate or registration in the respective trade category,
 330 however:

331 (h) A pool/spa contractor, as defined in s. 489.105(3)(j),
 332 (k), or (l), is not required to subcontract electrical work for
 333 the installation, replacement, disconnection, or reconnection of
 334 power wiring on the load side of the dedicated existing
 335 electrical disconnecting means, but is required to subcontract
 336 all electrical work that requires installation, removal,
 337 replacement, or upgrading of a circuit breaker. This paragraph
 338 does not apply to other contractor classifications or
 339 professions.

340 Section 6. Subsections (3), (7), and (8) of section 553.73,
 341 Florida Statutes, and paragraphs (a) and (b) of subsection (9)
 342 of that section, are amended to read:

343 553.73 Florida Building Code.—

344 (3) The commission shall use the 6th edition, and
 345 subsequent editions, of the Florida Building Code as the
 346 International Codes published by the International Code Council,
 347 the National Electric Code (NFPA 70), or other nationally
 348 adopted model codes and standards needed to develop the base

580-02981-17

2017860c2

code in Florida to form the foundation for the development of
and updates to the Florida Building Code. The Florida Building
commission may approve technical amendments to the code as
provided in, subject to subsections (8) and (9), after the
amendments have been subject to all of the following conditions:

(a) The proposed amendment must have ~~has~~ been published on
the commission's website for a minimum of 45 days and all the
associated documentation must have ~~has~~ been made available to
any interested party before ~~any~~ consideration by a technical
advisory committee.

(b) In order for a technical advisory committee to make a
favorable recommendation to the commission, the proposal must
receive a three-fourths vote of the members present at the
technical advisory committee meeting, and At least half of the
regular members must be present in order to conduct a meeting.

(c) After the technical advisory committee has considered
and recommended ~~consideration and a recommendation for~~ approval
of any proposed amendment, the proposal must be published on the
commission's website for at least 45 days before ~~any~~
consideration by the commission.

(d) A proposal may be modified by the commission based on
public testimony and evidence from a public hearing held in
accordance with chapter 120.

The commission shall incorporate within ~~sections of~~ the Florida
Building Code provisions that which address regional and local
concerns and variations. The commission shall make every effort
to minimize conflicts between the Florida Building Code, the
Florida Fire Prevention Code, and the Life Safety Code.

580-02981-17

2017860c2

(7) (a) The commission, by rule ~~adopted pursuant to ss-~~
~~120.536(1) and 120.54~~, shall review ~~update~~ the Florida Building
Code every 3 years to consider whether it needs to be revised.
The commission shall adopt code revisions by rule. When
evaluating potential revisions to ~~updating~~ the Florida Building
Code, the commission shall review ~~select~~ the most current
version of the International Building Code, the International
Fuel Gas Code, the International Mechanical Code, the
International Plumbing Code, and the International Residential
Code, all of which are adopted by the International Code
Council, and the National Electrical Code, which is adopted by
the National Fire Protection Association, ~~to form the foundation~~
~~codes of the updated Florida Building Code, if the version has~~
~~been adopted by the applicable model code entity~~. The commission
shall also review ~~select~~ the most current version of the
International Energy Conservation Code (IECC) ~~as a foundation~~
~~code~~; however, the IECC shall be modified by the commission must
~~to~~ maintain the efficiencies of the Florida Energy Efficiency
Code for Building Construction adopted and amended pursuant to
s. 553.901.

(b) Codes regarding noise contour lines shall be reviewed
annually, and the most current federal guidelines shall be
adopted.

(c) The commission may adopt as a technical amendment to
the Florida Building Code ~~modify~~ any portion of the ~~foundation~~
codes identified in paragraph (a) only as needed to accommodate
the specific needs of this state. Standards or criteria adopted
from such ~~referenced by the~~ codes shall be incorporated by
reference to the specific provisions of such codes which are

580-02981-17

2017860c2

407 adopted. If a referenced standard or criterion requires
 408 amplification or modification to be appropriate for use in this
 409 state, only the amplification or modification shall be set forth
 410 in the Florida Building Code. The commission may approve
 411 technical amendments to the updated Florida Building Code after
 412 the amendments have been subject to the conditions set forth in
 413 paragraphs (3)(a)-(d). Amendments that ~~to the foundation codes~~
 414 ~~which~~ are adopted in accordance with this subsection shall be
 415 clearly marked in printed versions of the Florida Building Code
 416 so that the fact that the provisions are ~~Florida-specific~~
 417 amendments ~~to the foundation codes~~ is readily apparent.

418 (d) The commission shall further consider the commission's
 419 own interpretations, declaratory statements, appellate
 420 decisions, and approved statewide and local technical amendments
 421 and shall incorporate such interpretations, statements,
 422 decisions, and amendments into the updated Florida Building Code
 423 only to the extent that they are needed to ~~modify the foundation~~
 424 ~~codes~~ to accommodate the specific needs of the state. A change
 425 made by an institute or standards organization to any standard
 426 or criterion that is adopted by reference in the Florida
 427 Building Code does not become effective statewide until it has
 428 been adopted by the commission. Furthermore, the edition of the
 429 Florida Building Code which is in effect on the date of
 430 application for any permit authorized by the code governs the
 431 permitted work for the life of the permit and any extension
 432 granted to the permit.

433 (e) A rule updating the Florida Building Code in accordance
 434 with this subsection shall take effect no sooner than 6 months
 435 after publication of the updated code. Any amendment to the

580-02981-17

2017860c2

436 Florida Building Code which is adopted upon a finding by the
 437 commission that the amendment is necessary to protect the public
 438 from immediate threat of harm takes effect immediately.

439 (f) Provisions of the Florida Building Code foundation
 440 ~~codes~~, including those contained in referenced standards and
 441 criteria, relating to wind resistance or the prevention of water
 442 intrusion may not be modified to diminish those construction
 443 requirements; however, the commission may, subject to conditions
 444 in this subsection, modify the provisions to enhance those
 445 construction requirements.

446 ~~(g) Amendments or modifications to the foundation code~~
 447 ~~pursuant to this subsection shall remain effective only until~~
 448 ~~the effective date of a new edition of the Florida Building Code~~
 449 ~~every third year. Amendments or modifications related to state~~
 450 ~~agency regulations which are adopted and integrated into an~~
 451 ~~edition of the Florida Building Code shall be carried forward~~
 452 ~~into the next edition of the code, subject to modification as~~
 453 ~~provided in this part. Amendments or modifications related to~~
 454 ~~the wind-resistance design of buildings and structures within~~
 455 ~~the high-velocity hurricane zone of Miami-Dade and Broward~~
 456 ~~Counties which are adopted to an edition of the Florida Building~~
 457 ~~Code do not expire and shall be carried forward into the next~~
 458 ~~edition of the code, subject to review or modification as~~
 459 ~~provided in this part. If amendments that expire pursuant to~~
 460 ~~this paragraph are resubmitted through the Florida Building~~
 461 ~~commission code adoption process, the amendments must~~
 462 ~~specifically address whether:~~

463 1. ~~The provisions contained in the proposed amendment are~~
 464 ~~addressed in the applicable international code.~~

580-02981-17

2017860c2

2. ~~The amendment demonstrates by evidence or data that the geographical jurisdiction of Florida exhibits a need to strengthen the foundation code beyond the needs or regional variations addressed by the foundation code, and why the proposed amendment applies to this state.~~

3. ~~The proposed amendment was submitted or attempted to be included in the foundation codes to avoid resubmission to the Florida Building Code amendment process.~~

~~If the proposed amendment has been addressed in the international code in a substantially equivalent manner, the Florida Building commission may not include the proposed amendment in the foundation Code.~~

(8) Notwithstanding the provisions of subsection (3) or subsection (7), the commission may address issues identified in this subsection by amending the code pursuant only to the rule adoption procedures ~~contained~~ in chapter 120. ~~Provisions of The Florida Building Code, including provisions those~~ contained in referenced standards and criteria which relate, ~~relating~~ to wind resistance or the prevention of water intrusion, may not be amended pursuant to this subsection to diminish those standards ~~construction requirements~~; however, the commission may, ~~subject to conditions in this subsection,~~ amend the Florida Building Code the provisions to enhance such standards those construction requirements. Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are

580-02981-17

2017860c2

needed to address:

- (a) Conflicts within the updated code;
- (b) Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;
- (c) Unintended results from the integration of previously adopted ~~Florida-specific~~ amendments with the model code;
- (d) Equivalency of standards;
- (e) Changes to or inconsistencies with federal or state law; or
- (f) Adoption of an updated edition of the National Electrical Code if the commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.
- (9) (a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:
 - 1. Is needed in order to accommodate the specific needs of this state.
 - 2. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
 - 3. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
 - 4. Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.
 - 5. Does not degrade the effectiveness of the Florida

580-02981-17

2017860c2

523 Building Code.

524
525 The Florida Building Commission may approve technical amendments
526 to the code once each year to incorporate into the Florida
527 Building Code its own interpretations of the code which are
528 embodied in its opinions, final orders, declaratory statements,
529 and interpretations of hearing officer panels under s.
530 553.775(3)(c), but only to the extent that the incorporation of
531 interpretations is needed to modify the code foundation codes to
532 accommodate the specific needs of this state. Amendments
533 approved under this paragraph shall be adopted by rule after the
534 amendments have been subjected to subsection (3).

535 (b) A proposed amendment must include a fiscal impact
536 statement that documents the costs and benefits of the proposed
537 amendment. Criteria for the fiscal impact statement shall be
538 established by rule by the commission and shall include the
539 impact to local government relative to enforcement, the impact
540 to property and building owners, and the impact to industry,
541 relative to the cost of compliance. The amendment must
542 demonstrate by evidence or data that the state's geographical
543 jurisdiction exhibits a need to strengthen the foundation code
544 beyond the needs or regional variations addressed by the
545 foundation code and why the proposed amendment applies to this
546 state.

547 Section 7. Subsection (2) of section 553.76, Florida
548 Statutes, is amended to read:

549 553.76 General powers of the commission.—The commission is
550 authorized to:

551 (2) Issue memoranda of procedure for its internal

580-02981-17

2017860c2

552 management and control. The commission may adopt rules related
553 to its consensus-based decisionmaking process, including, but
554 not limited to, super majority voting requirements ~~for~~
555 ~~commission actions relating to the adoption of the Florida~~
556 ~~Building Code or amendments to the code. However, the commission~~
557 must adopt the Florida Building Code, and amendments thereto, by
558 at least a three-fourths vote of the members present at a
559 meeting.

560 Section 8. Paragraphs (d) and (i) of subsection (1) of
561 section 553.791, Florida Statutes, are amended to read:

562 553.791 Alternative plans review and inspection.—

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

564 (d) "Building code inspection services" means those
565 services described in s. 468.603(5) ~~s. 468.603(6)~~ and (8) ~~(7)~~
566 involving the review of building plans to determine compliance
567 with applicable codes and those inspections required by law of
568 each phase of construction for which permitting by a local
569 enforcement agency is required to determine compliance with
570 applicable codes.

571 (i) "Private provider" means a person licensed as a
572 building code administrator under part XII of chapter 468, as an
573 engineer under chapter 471, or as an architect under chapter
574 481. For purposes of performing inspections under this section
575 for additions and alterations that are limited to 1,000 square
576 feet or less to residential buildings, the term "private
577 provider" also includes a person who holds a standard
578 certificate under part XII of chapter 468.

579 Section 9. Section 471.045, Florida Statutes, is amended to
580 read:

580-02981-17

2017860c2

581 471.045 Professional engineers performing building code
 582 inspector duties.—Notwithstanding any other provision of law, a
 583 person who is currently licensed under this chapter to practice
 584 as a professional engineer may provide building code inspection
 585 services described in s. 468.603(5) ~~s. 468.603(6)~~ and (8) ~~(7)~~ to
 586 a local government or state agency upon its request, without
 587 being certified by the Florida Building Code Administrators and
 588 Inspectors Board under part XII of chapter 468. When performing
 589 these building code inspection services, the professional
 590 engineer is subject to the disciplinary guidelines of this
 591 chapter and s. 468.621(1)(c)-(h). Any complaint processing,
 592 investigation, and discipline that arise out of a professional
 593 engineer's performing building code inspection services shall be
 594 conducted by the Board of Professional Engineers rather than the
 595 Florida Building Code Administrators and Inspectors Board. A
 596 professional engineer may not perform plans review as an
 597 employee of a local government upon any job that the
 598 professional engineer or the professional engineer's company
 599 designed.

600 Section 10. Section 481.222, Florida Statutes, is amended
 601 to read:

602 481.222 Architects performing building code inspection
 603 services.—Notwithstanding any other provision of law, a person
 604 who is currently licensed to practice as an architect under this
 605 part may provide building code inspection services described in
 606 s. 468.603(5) ~~s. 468.603(6)~~ and (8) ~~(7)~~ to a local government or
 607 state agency upon its request, without being certified by the
 608 Florida Building Code Administrators and Inspectors Board under
 609 part XII of chapter 468. With respect to the performance of such

Page 21 of 22

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580-02981-17

2017860c2

610 building code inspection services, the architect is subject to
 611 the disciplinary guidelines of this part and s. 468.621(1)(c)-
 612 (h). Any complaint processing, investigation, and discipline
 613 that arise out of an architect's performance of building code
 614 inspection services shall be conducted by the Board of
 615 Architecture and Interior Design rather than the Florida
 616 Building Code Administrators and Inspectors Board. An architect
 617 may not perform plans review as an employee of a local
 618 government upon any job that the architect or the architect's
 619 company designed.

620 Section 11. This act shall take effect October 1, 2017.

Page 22 of 22

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 888

INTRODUCER: Senator Bean

SUBJECT: Prescription Drug Price Transparency

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Looke	Stovall	HP	Favorable
2. Forbes	Williams	AHS	Recommend: Favorable
3. Forbes	Hansen	AP	Pre-meeting

I. Summary:

Currently, the Agency for Health Care Administration (AHCA) lists 150 medications on its website for retail drug prices, although current statute only requires 100 medications to be listed. SB 888 requires the AHCA to list on its website retail drug prices, by pharmacy, for a 30-day supply of the 300 most frequently prescribed medications. The bill requires the AHCA to update the prices monthly.

The bill does not impact of state revenues or expenditures.

This bill takes effect upon becoming law.

II. Present Situation:

Currently, s. 408.062, F.S., requires that the AHCA collect quarterly a statistically valid sample of data on the retail prices charged by pharmacies for the 100 most frequently prescribed medicines from any pharmacy licensed by this state as a special study authorized by the Legislature to be performed by the agency quarterly. If the drug is available generically, price data must be reported for both the generic drug and brand-named drug for which the generic drug is the equivalent. The AHCA is required to make available on its Internet website, for each pharmacy, drug prices for a 30-day supply at a standard dose.

The AHCA's website implementing s. 408.062, F.S., is MyFloridaRx.¹ The AHCA established the webpage in 2005 in collaboration with the Attorney General's Office. Currently, the AHCA collects and provides retail pricing information² for the 150 most commonly prescribed medications and the website is updated on a monthly basis. The source of the data is the usual

¹ See <http://www.myfloridarx.com/>

² Prices that reflect what an uninsured consumer would pay.

and customary price³ as reported to the AHCA on Medicaid fee-for-service pharmacy claims and Medicaid HMO encounters. Visitors to the website can search for pricing information by county, city, or name of the medication they need. The search output displays pharmacy name, address, and telephone number; pharmacy zip code; drug name and strength; most commonly dispensed quantity; and price.⁴

III. Effect of Proposed Changes:

The bill enhances price transparency for consumers of prescription medications by increasing the number of commonly prescribed medications for which the retail price is disclosed on the AHCA website, to help consumers shop for the lowest price in their area for their prescription drugs.

The bill amends s. 408.062, F.S., to require the AHCA to list on its website retail drug prices, by pharmacy, for a 30-day supply of the 300 most frequently prescribed medications and to update the prices monthly.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures.

³ Usual and customary price in this context means the average charge to all other customers during the same calendar quarter for the same drug, quantity, and strength.

⁴ Agency for Health Care Administration, *Senate Bill 888 Analysis* (Feb. 3, 2017) (on file with the Senate Committee on Health Policy Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 408.062 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Bean

4-01279-17

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1 A bill to be entitled
 2 An act relating to prescription drug price
 3 transparency; amending s. 408.062, F.S.; requiring the
 4 Agency for Health Care Administration to collect data
 5 on the retail prices charged by pharmacies for the 300
 6 most frequently prescribed medicines; requiring the
 7 agency to update its website monthly; providing an
 8 effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (h) of subsection (1) of section
 13 408.062, Florida Statutes, is amended to read:
 14 408.062 Research, analyses, studies, and reports.—
 15 (1) The agency shall conduct research, analyses, and
 16 studies relating to health care costs and access to and quality
 17 of health care services as access and quality are affected by
 18 changes in health care costs. Such research, analyses, and
 19 studies shall include, but not be limited to:
 20 (h) The collection of a statistically valid sample of data
 21 on the retail prices charged by pharmacies for the 300 ~~100~~ most
 22 frequently prescribed medicines from any pharmacy licensed by
 23 this state ~~as a special study authorized by the Legislature to~~
 24 ~~be performed by the agency quarterly~~. If the drug is available
 25 generically, price data shall be reported for the generic drug
 26 and price data of a brand-named drug for which the generic drug
 27 is the equivalent shall be reported. The agency shall make
 28 available on its Internet website for each pharmacy, ~~no later~~
 29 ~~than October 1, 2006,~~ drug prices for a 30-day supply at a

Page 1 of 2

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4-01279-17

2017888__

30 standard dose. The data collected shall be reported for each
 31 drug by pharmacy and by metropolitan statistical area or region
 32 and updated monthly ~~quarterly~~.
 33 Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 902

INTRODUCER: Education Committee and Senator Simmons

SUBJECT: Gardiner Scholarship Program

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Androff	Graf	ED	Fav/CS
2.	Sikes	Hansen	AP	Pre-meeting
3.			RC	
4.				

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 902 modifies the Gardiner Scholarship Program (GSP) to:

- Expand the definition of disability for purposes of the GSP.
- Revise student eligibility criteria for participation in the GSP.
- Authorize the procurement of additional services using GSP funds.
- Provide that a private school with material exceptions to its agreed-upon procedures reports in consecutive years or that is unable to comply with GSP requirements may be deemed ineligible for GSP participation by the Commissioner of Education.
- Specify circumstances that require a student's scholarship account to be closed and conditions under which a student is deemed ineligible for the scholarship.

SB 2500, the Senate General Appropriations Act, appropriates \$107,416,063 for the GSP. The expansion of qualifying disabilities is estimated to cost approximately \$14 million. Student eligibility for the GSP is on a first-come, first served basis, based on funds provided. If the number of eligible students exceeds the available funding, eligible students who do not receive funding will be placed on the wait list.

The bill takes effect July 1, 2017.

II. Present Situation:

The Gardiner Scholarship Program (GSP) provides parents of eligible students with disabilities more flexibility to customize their child's education.¹ Funds are distributed to qualified² Scholarship Funding Organizations (SFOs) to establish accounts for eligible students.³ Parents can use funds from the student's account to choose from a variety of approved items or services for their students including, but not limited to: specialized services, curriculum, instructional materials, tuition, and contracted services.⁴

Eligibility

The parent of a student, who is a Florida resident, may request and receive an account if the student:⁵

- Is 3 or 4 years old or eligible to enroll in kindergarten through grade 12 in a Florida public school;
- Has one of the following disabilities:
 - Autism spectrum disorder,
 - Cerebral palsy,
 - Down syndrome,
 - An intellectual disability,
 - Phelan-McDermid syndrome,
 - Prader-Willi syndrome,
 - Spina bifida,
 - Muscular dystrophy,
 - Is identified as a high-risk child, or
 - Williams syndrome; and
- Has an Individualized Education Plan (IEP) written in accordance with the State Board of Education or has received a diagnosis of one of the above disabilities from a licensed physician or a licensed psychologist.

A student is not eligible for the GSP:⁶

- While enrolled in a public school.
- While enrolled in a Department of Juvenile Justice schools commitment program.
- While receiving a scholarship from the Florida Tax Credit Scholarship Program or the McKay Scholarship for Students with Disabilities Program.
- Or while receiving any other educational scholarship under Chapter 1002 of the Florida Statutes.

¹ Section 1002.385(1), F.S.

² *Id.* at (2)(e).

³ Section 1002.385, F.S.

⁴ Section 1002.385(5), F.S.

⁵ Section 1002.385(3), F.S.

⁶ *Id.* at (4).

The parent of a student with a disability who does not have an IEP or who seeks a reevaluation of an existing IEP may request an IEP meeting and evaluation from the school district in order to obtain or revise a matrix of services.⁷

Parents must apply to an eligible SFO to participate in the program by February 1 before the school year in which the student wishes to participate, or an alternative date set by the SFO.⁸ Scholarship awards are provided on a first-come, first-served basis.⁹

Award Amount

An individual student scholarship is calculated, in part, using the appropriate cost for the educational program which would have been provided for the student in the school district.¹⁰ Unless a parent requests and receives an IEP and matrix of services from a district, each student's scholarship amount is based on support Level III of services.¹¹

Allowable Expenditures

GSP funds must be used to meet the individual education needs of the student.¹² Program funds may be spent for the following authorized purposes:¹³

- Instructional materials and curriculum.
- Specialized services by approved providers, including but not limited to, applied behavior analysis, speech language pathologist, occupational therapy, physical therapy, and services provided by spoken and listening language specialists.
- Enrollment in, or tuition and fees for enrollment in, a home education program, an eligible private school or postsecondary institution or a program offered by the institution, a private tutoring program, or virtual education programs or courses.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contributions to the Stanley G. Tate Florida Prepaid College Program or the Florida College Savings Program.
- Contracted services provided by a public school or school district, including classes.
- Tuition and fees for part-time tutoring services provided by an individual who has a valid Florida educator's certificate, an adjunct teaching certificate, or has demonstrated mastery of subject area knowledge.
- Fees for specialized summer or after-school education programs.
- Fees for transition services provided by job coaches.
- Fees for an annual evaluation used by home education students.
- Tuition and fees associated with programs offered by VPK education and school readiness providers.

⁷ Section 1002.385(7)(a)1., F.S.

⁸ Section 1002.385(3)(b), F.S.

⁹ *Id.* at 12(b).

¹⁰ Section 1002.385(13)(a)1., F.S.

¹¹ *Id.* at (13)(a)3.

¹² *Id.* at (11).

¹³ *Id.* at (5).

Eligible Service Providers

Currently, entities eligible to provide specialized services or educational programs include:¹⁴

- A provider approved by the Agency for Persons with Disabilities, a health care practitioner or a provider approved by the Florida Department of Education (DOE) to offer specialized instructional services for children with disabilities.
- A postsecondary educational institution including a Florida College System institution; a state university; a school district technical center; a school district adult general education center; an independent college or university eligible to participate in the William L. Boyd, IV Florida Resident Access Grant Program; or an accredited, independent postsecondary educational institution which is licensed to operate in this state.
- A private school that is located in this state, offers education to students in any grade from kindergarten to grade 12, meets all the requirements of a private school operating in Florida, and meets all the requirements of a private school participating in the John M. McKay Scholarship Program or the Florida Tax Credit Scholarship Program.

III. Effect of Proposed Changes:

The bill modifies the Gardiner Scholarship Program (GSP) to:

- Expand the definition of disability, for purposes of the GSP, to include a child:
 - Diagnosed with a rare disease or condition, which affects patient populations of fewer than 200,000 individuals in the United States;
 - Diagnosed as Anaphylaxis; or
 - Identified as deaf, visually impaired, hospital or homebound, dual sensory impaired, traumatic brain injured, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The bill describes hospital or homebound to mean a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the State Board in rule, and who is confined to the home or hospital for more than 6 months.
- Specify that a student's individual education plan (IEP) is not required to be reviewed or revised within the last 12 months in order for the student to be eligible for the GSP.
- Allow a student with an IEP from another state or physician licensed in another state to qualify for the GSP, if the student meets the other eligibility requirements.
- Authorize the use of GSP funds to procure services provided by a hospital in Florida which is selected by a parent, a certified music therapist, art therapist, or services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International.
- Specify that a parent, student, or provider of any services may not bill an insurance company, Medicaid, or any other agency for the same services paid through Gardiner Scholarship funds.
- Provide that if a private school is unable to meet the requirements in law or has consecutive years of material exceptions listed in its agreed-upon procedures reports, the Commissioner of the Department of Education (DOE) may determine that the schools is ineligible to participate in the GSP.

¹⁴ Section 1002.285(2), F.S.

- Require a student's scholarship account to be closed and remaining funds reverted to the state if an account has been inactive for three consecutive fiscal years. The bill defines inactive to mean that eligible expenditures have not been made from a student's scholarship account.
- Specify that if a parent does not procure the necessary educational services for the student and the student's account has been inactive for 2 consecutive fiscal years, the student is ineligible for additional scholarship payments until the scholarship-funding organization verifies that expenditures have occurred from the account.

The bill may result in additional students qualifying for awards under the GSP and allow students and parents to procure additional services from a hospital in Florida which is selected by the student's parent, licensed music therapists, art therapists, or a center that is a member of the Professional Association of Therapeutic Horsemanship International.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in additional students qualifying for an award through the Gardiner Scholarship Program (GSP). In the 2016-17 fiscal year, the average GSP award is approximately \$10,000.¹⁵ The bill may also allow specified therapists and centers to receive funds from GSP program participants that choose to procure specialized services from such providers.

¹⁵ Florida Department of Education, *HB 15 Analysis* (2017), at 9. The GSP provisions in HB 15 are substantively similar to SB 1314.

C. Government Sector Impact:

SB 2500, the Senate General Appropriations Act, appropriates \$107,416,063 for the GSP. The expansion of qualifying disabilities is estimated to cost approximately \$14 million. Student eligibility for the GSP is on a first-come, first served basis, based on funds provided. If the number of eligible students exceeds the available funding, eligible students who do not receive funding will be placed on the wait list.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1002.385 of the Florida Statutes.

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

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

CS by Education on April 17, 2017:

The committee substitute:

- Modifies the definition of disability for purposes of the Gardiner Scholarship Program by deleting orthopedically impaired and other health impaired identification from the disability definition and revising the rare diseases definition.
- Restores current law regarding program eligibility criteria by deleting provisions in the bill that expanded eligibility to a student 5 years or older and who has been previously identified as high risk.
- Authorizes the use of program funds for specialized services provided by a hospital in Florida which is selected by a parent.
- Specifies that a parent, student, or provider of any services may not bill an insurance company, Medicaid, or any other agency for the same services paid through Gardiner Scholarship funds.
- Provides that a student's scholarship account must be closed and any remaining funds revert to the state if an account has been inactive for three consecutive fiscal years. The bill defines inactive to mean that eligible expenditures have not been made from a student's scholarship account.
- Specifies that if a parent does not procure the necessary educational services for the student and the student's account has been inactive for 2 consecutive financial years, the student is deemed ineligible for additional scholarship payments until the scholarship-funding organization verifies that expenditures have occurred from the student's scholarship account.

- Deletes from the bill the appropriation of \$200 million in recurring funds from the General Revenue fund for scholarship awards and \$6 million in recurring funds from the General Revenue fund for administrative expenses.

B. Amendments:

None.

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



267912

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment

Delete lines 45 - 47
and insert:
individuals in the United States, as defined by the National
Organization for Rare Disorders; anaphylaxis; deaf; visually
impaired; dual sensory impaired; traumatic brain injured; or
hospital or homebound, as defined by rules of the



313386

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 221 - 222

and insert:

subject to this paragraph must annually submit the report by
September 15, ~~2015~~, and ~~annually thereafter~~ to the

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

And the title is amended as follows:

Delete lines 11 - 12



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11 and insert:
12 number of years;



565618

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment

Delete lines 267 - 271
and insert:
pursuant to paragraph (3) (b). A student is ineligible for scholarship funding if the student's account has been inactive for 2 consecutive fiscal years. However, once an eligible expenditure is made pursuant to paragraph (11) (f), the student may resume scholarship funding, based on available funds.

By the Committee on Education; and Senator Simmons

581-03948-17

2017902c1

A bill to be entitled

An act relating to the Gardiner Scholarship Program; amending s. 1002.385, F.S.; redefining the terms "disability" and "IEP"; defining the term "inactive"; prohibiting a student who is enrolled in the Florida School for the Deaf and the Blind from being eligible for the program; revising the purposes for which program funds may be used; requiring that a student's account be closed and program funds revert to the state after the account is inactive for a specified number of years; revising the date upon which certain private schools must submit a required report; specifying that certain actions of the private school are a basis for program ineligibility; revising parent and student responsibilities for program participation; revising obligations of scholarship-funding organizations; providing an effective date.

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

Section 1. Paragraphs (d) and (h) of subsection (2) of section 1002.385, Florida Statutes, are amended, present paragraphs (i) and (j) of that subsection are redesignated as paragraphs (j) and (k), respectively, a new paragraph (i) is added to that subsection, paragraph (a) of subsection (3) of that section is amended, paragraph (e) is added to subsection (4) of that section, and subsection (5), paragraph (b) of subsection (6), subsection (8), paragraph (f) of subsection (11), and paragraph (j) of subsection (12) of that section are

Page 1 of 10

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581-03948-17

2017902c1

amended, to read:

1002.385 The Gardiner Scholarship.—

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

(d) "Disability" means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; cerebral palsy, as defined in s. 393.063(6); Down syndrome, as defined in s. 393.063(15); an intellectual disability, as defined in s. 393.063(24); Phelan-McDermid syndrome, as defined in s. 393.063(28); Prader-Willi syndrome, as defined in s. 393.063(29); spina bifida, as defined in s. 393.063(40); being a high-risk child, as defined in s. 393.063(23) (a); muscular dystrophy; ~~and~~ Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States; anaphylaxis; or identification as deaf, visually impaired, hospital or homebound, dual sensory impaired, or traumatic brain injured, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The term "hospital or homebound" includes a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the state board in rule, and who is confined to the home or hospital for more than 6 months.

(h) "IEP" means individual education plan, regardless of whether the plan has been reviewed or revised within the last 12 months.

(i) "Inactive" means that eligible expenditures have not been made from an account funded pursuant to paragraph (13)(d).

(3) PROGRAM ELIGIBILITY.—A parent of a student with a

Page 2 of 10

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581-03948-17

2017902c1

disability may request and receive from the state a Gardiner Scholarship for the purposes specified in subsection (5) if:

(a) The student:

1. Is a resident of this state;
2. Is 3 or 4 years of age on or before September 1 of the year in which the student applies for program participation, or is eligible to enroll in kindergarten through grade 12 in a public school in this state;
3. Has a disability as defined in paragraph (2)(d); and
4. Is the subject of an IEP written in accordance with rules of the State Board of Education or with the applicable rules of another state or has received a diagnosis of a disability from a physician who is licensed under chapter 458 or chapter 459, ~~or~~ a psychologist who is licensed under chapter 490, or a physician who holds an active license issued by another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(4) PROGRAM PROHIBITIONS.—A student is not eligible for the program if he or she is:

(e) Enrolled in the Florida School for the Deaf and the Blind.

(5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be used to meet the individual educational needs of an eligible student and may be spent for the following purposes:

- (a) Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices.

581-03948-17

2017902c1

(b) Curriculum as defined in paragraph (2)(b).

(c) Specialized services by approved providers or by a hospital in this state which ~~that~~ are selected by the parent. These specialized services may include, but are not limited to:

1. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.
2. Services provided by speech-language pathologists as defined in s. 468.1125.
3. Occupational therapy services as defined in s. 468.203.
4. Services provided by physical therapists as defined in s. 486.021.

5. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who is deaf or hard of hearing and who has received an implant or assistive hearing device.

(d) Enrollment in, or tuition or fees associated with enrollment in, a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the institution, a private tutoring program authorized under s. 1002.43, a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a), the Florida Virtual School as a private paying student, or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

(e) Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

581-03948-17

2017902c1

(f) Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98 or the Florida College Savings Program pursuant to s. 1009.981, for the benefit of the eligible student.

(g) Contracted services provided by a public school or school district, including classes. A student who receives services under a contract under this paragraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (4).

(h) Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator's certificate pursuant to s. 1012.56; a person who holds an adjunct teaching certificate pursuant to s. 1012.57; or a person who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5). As used in this paragraph, the term "part-time tutoring services" does not qualify as regular school attendance as defined in s. 1003.01(13)(e).

(i) Fees for specialized summer education programs.

(j) Fees for specialized after-school education programs.

(k) Transition services provided by job coaches.

(l) Fees for an annual evaluation of educational progress by a state-certified teacher under s. 1002.41(1)(c), if this option is chosen for a home education student.

(m) Tuition and fees associated with programs offered by Voluntary Prekindergarten Education Program providers approved pursuant to s. 1002.55 and school readiness providers approved pursuant to s. 1002.88.

(n) Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship

581-03948-17

2017902c1

International.

(o) Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board.

A provider of any services receiving payments pursuant to this subsection may not share, refund, or rebate any moneys from the Gardiner Scholarship with the parent or participating student in any manner. A parent, student, or provider of any services may not bill an insurance company, Medicaid, or any other agency for the same services that are paid through the Gardiner Scholarship funds.

(6) TERM OF THE PROGRAM.—For purposes of continuity of educational choice and program integrity:

(b)1. A student's scholarship account must be closed and any remaining funds, including, but not limited to, contributions made to the Stanley G. Tate Florida Prepaid College Program or earnings from or contributions made to the Florida College Savings Program using program funds pursuant to paragraph (5)(f), shall revert to the state after ~~upon~~:

a. Denial or revocation of program eligibility by the commissioner for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services received pursuant to subsection (5); ~~or~~

b. ~~After~~ Any period of 3 consecutive years after high school completion or graduation during which the student has not been enrolled in an eligible postsecondary educational institution or a program offered by the institution; or

581-03948-17

2017902c1

175 c. Three consecutive fiscal years in which an account has
 176 been inactive.

177 2. The commissioner must notify the parent and the
 178 organization when a Gardiner Scholarship account is closed and
 179 program funds revert to the state.

180 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible
 181 private school may be sectarian or nonsectarian and shall:

182 (a) Comply with all requirements for private schools
 183 participating in state school choice scholarship programs
 184 pursuant to s. 1002.421.

185 (b) Provide to the organization, upon request, all
 186 documentation required for the student's participation,
 187 including the private school's and student's fee schedules.

188 (c) Be academically accountable to the parent for meeting
 189 the educational needs of the student by:

190 1. At a minimum, annually providing to the parent a written
 191 explanation of the student's progress.

192 2. Annually administering or making provision for students
 193 participating in the program in grades 3 through 10 to take one
 194 of the nationally norm-referenced tests identified by the
 195 Department of Education or the statewide assessments pursuant to
 196 s. 1008.22. Students with disabilities for whom standardized
 197 testing is not appropriate are exempt from this requirement. A
 198 participating private school shall report a student's scores to
 199 the parent.

200 3. Cooperating with the scholarship student whose parent
 201 chooses to have the student participate in the statewide
 202 assessments pursuant to s. 1008.22 or, if a private school
 203 chooses to offer the statewide assessments, administering the

581-03948-17

2017902c1

204 assessments at the school.

205 a. A participating private school may choose to offer and
 206 administer the statewide assessments to all students who attend
 207 the private school in grades 3 through 10.

208 b. A participating private school shall submit a request in
 209 writing to the Department of Education by March 1 of each year
 210 in order to administer the statewide assessments in the
 211 subsequent school year.

212 (d) Employ or contract with teachers who have regular and
 213 direct contact with each student receiving a scholarship under
 214 this section at the school's physical location.

215 (e) Annually contract with an independent certified public
 216 accountant to perform the agreed-upon procedures developed under
 217 s. 1002.395(6)(o) and produce a report of the results if the
 218 private school receives more than \$250,000 in funds from
 219 scholarships awarded under this section in the 2014-2015 state
 220 fiscal year or a state fiscal year thereafter. A private school
 221 subject to this paragraph must submit the report by September
 222 15, 2015, and annually thereafter by August 15 to the
 223 organization that awarded the majority of the school's
 224 scholarship funds. The agreed-upon procedures must be conducted
 225 in accordance with attestation standards established by the
 226 American Institute of Certified Public Accountants.

227
 228 If The inability of a private school is unable to meet the
 229 requirements of this subsection or has in consecutive years had
 230 material exceptions listed in its agreed-upon procedures
 231 reports, there is ~~constitutes~~ a basis for the ineligibility of
 232 the private school to participate in the program as determined

581-03948-17

2017902c1

by the commissioner.

(11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for program participation under this section is exercising his or her parental option to determine the appropriate placement or the services that best meet the needs of his or her child. The scholarship award for a student is based on a matrix that assigns the student to support Level III services. If a parent receives an IEP and a matrix of services from the school district pursuant to subsection (7), the amount of the payment shall be adjusted as needed, when the school district completes the matrix.

(f) The parent is responsible for procuring the services necessary to educate the student. If a parent does not procure the necessary educational services for the student and the student's account has been inactive for 2 consecutive fiscal years, the student is ineligible for additional scholarship payments until the scholarship-funding organization verifies that expenditures from the account have occurred. When the student receives a Gardiner Scholarship, the district school board is not obligated to provide the student with a free appropriate public education. For purposes of s. 1003.57 and the Individuals with Disabilities in Education Act, a participating student has only those rights that apply to all other unilaterally parentally placed students, except that, when requested by the parent, school district personnel must develop an individual education plan or matrix level of services.

A parent who fails to comply with this subsection forfeits the Gardiner Scholarship.

Page 9 of 10

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581-03948-17

2017902c1

(12) OBLIGATIONS OF SCHOLARSHIP-FUNDING ORGANIZATIONS.—An organization may establish Gardiner Scholarships for eligible students by:

(j) Documenting each scholarship student's eligibility for a fiscal year before granting a scholarship for that fiscal year pursuant to paragraph (3)(b). A student is ineligible for a scholarship if the student's account has been inactive for 2 consecutive fiscal years. However, once an eligible expenditure is made pursuant to paragraph (11)(f), the student is eligible for a scholarship, based on available funds.

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

Page 10 of 10

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1118 (304644)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Transportation Committee; and Senator Gainer and others

SUBJECT: Transportation

DATE: April 24, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller	TR	Fav/CS
2. Pitts	Pitts	ATD	Recommend: Fav/CS
3. Pitts	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1118 reflects the Department of Transportation's (FDOT) 2017 Legislative Package. Specifically, the bill:

- Directs the FDOT, in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), to develop a Florida Smart City Challenge grant program;
- Increases the allowable gross vehicle weight for vehicles using natural-gas fueling systems by up to 2,000 pounds under certain conditions, resulting in a reduced overweight penalty and avoiding a potential loss of federal funds;
- Revises autonomous vehicle alert system requirements, consistent with current law, to clarify that an autonomous vehicle may operate in autonomous mode without a person physically present in the vehicle;
- Applies certain insurance coverage requirements, should legislation addressing insurance for transportation network companies (TNCs) become law, to autonomous vehicles used by TNCs to provide transportation, regardless of whether a human operator is physically present in the vehicle when the ride occurs;
- Defines the term "automated mobility district," directs the FDOT to designate such districts and, in determining a community's eligibility for designation, to consider applicable federal agency criteria for such districts and apply the criteria to eligible developments.
- Aligns state and federal law by mandating bridge inspections at regular intervals as required by the Federal Highway Administration, as opposed to intervals not exceeding two years,

resulting in compliance with revised national bridge inspection requirements and avoiding a potential but likely insignificant diversion of federal funds;

- Directs the FDOT to establish a process for applications for placement of roadside memorial markers at or near the location of traffic-related fatalities on the State Highway System to raise public awareness and remind motorists to drive safely and to establish criteria for the design and fabrication of the markers; provides for incorporation of emblems of belief on such markers under certain conditions; provides requirements for the placement of such markers; and directs the FDOT to remove such markers under certain conditions, subject to certain notice requirements.
- Increases the current \$120,000 cap on “fast response” contracts to \$250,000 to account for increased construction costs due to inflation;
- Allows turnpike bonds to be validated at the option of the Division of Bond Finance (DBF) and limits the location of publication of certain related notices to Leon County;
- Repeals the Florida Highway Beautification Council and creates the Florida Highway Beautification Grant Program within the FDOT;
- Defines “department” to mean the FDOT for purposes of part II of ch. 343, F.S., relating to the South Florida Regional Transportation Authority (SFRTA);
- Prohibits the SFRTA from entering into, extending, or renewing any contract without the FDOT’s prior review and written approval of the proposed expenditures if such contract may be funded with FDOT-provided funds;
- Deems funds provided by the FDOT to the SFRTA to be state financial assistance subject to specified requirements;
- Requires the FDOT to provide funds to the SFRTA in accordance with a written agreement containing certain provisions;
- Authorizes the FDOT to advance funds to the SFRTA at the start of each fiscal year, with monthly payments for maintenance and dispatch on the South Florida Rail Corridor over the fiscal year on a reimbursement basis;
- Expressly includes transportation network companies (TNCs) in the list of providers of services for the transportation disadvantaged;
- Authorizes the FDOT Secretary to enroll the state in any federal pilot program or project for the collection and study of specified types of transportation-related data;
- Deletes and revises cross-references to conform to changes made in the act.
- Provides the bill take effect on July 1, 2017

The bill’s provisions have both indeterminate negative and positive fiscal impacts on state funds, of which combined are neutral. The bill may have impacts to revenues and expenditures related to the SFRTA and the DBF. See Section V., “Fiscal Impact Statement,” for details.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Florida Smart City Challenge Grant Program (Section 1)

Present Situation:

The United States Department of Transportation (USDOT) launched a Smart City Challenge in December of 2015. The challenge asked mid-sized cities “to develop ideas for an integrated, first-of-its-kind smart transportation system that would use data, applications, and technology to help people and goods move more quickly, cheaply, and efficiently.”¹ The USDOT committed up to \$40 million to one winning city.² The USDOT received 78 applications from cities across America, including the following cities in Florida: Jacksonville, Miami, Orlando, St. Petersburg, Tallahassee, and Tampa. However, no Florida city received any funding.

Ultimately, Columbus, Ohio won the challenge by proposing “a comprehensive, integrated plan addressing challenges in residential, commercial, freight, and downtown districts using a number of new technologies, including connected infrastructure, an integrated data platform, autonomous vehicles, and more.”³ The USDOT then worked with seven finalists to further develop the ideas proposed by the cities and, in October of 2016, announced an additional \$65 million in grants to support advanced technology transportation projects. Again, no Florida city was among the finalists.

Effect of Proposed Changes:

Section 1 of the bill creates s. 316.0898, F.S., to direct the FDOT, in consultation with the Department of Highway Safety and Motor Vehicles, to develop the Florida Smart City Challenge grant program and establish grant award requirements for municipalities or regions. Grant applicants must demonstrate and document the adoption of emerging technologies and their impact on the transportation system, and must address at least the following focus areas:

- Autonomous vehicles;
- Connected vehicles;⁴
- Sensor-based infrastructure;
- Collecting and using data;
- Electric vehicles, including charging stations; and
- Developing strategic models and partnerships;

The stated goals of the grant program include, without limitation:

- Identifying transportation challenges and identifying how emerging technologies can address those challenges;

¹See the USDOT website available at: <https://www.transportation.gov/smartcity>. (Last visited April 11, 2017.)

²See the USDOT website available at: <https://www.transportation.gov/sites/dot.gov/files/docs/Smart%20City%20Challenge%20Lessons%20Learned.pdf>. (Last visited April 11, 2017.)

³See the USDOT website available at: <https://www.transportation.gov/smartcity/winner>. (Last visited April 11, 2017.)

⁴⁴ These are “vehicles that use any of a number of different communication technologies to communicate with the driver, other cars on the road (vehicle-to-vehicle [V2V], roadside infrastructure (vehicle-to-infrastructure [V2I]), and the ‘Cloud.’” See the Center for Advanced Automotive Technology website available at: http://autocaat.org/Technologies/Automated_and_Connected_Vehicles/. (Last visited April 14, 2017.)

- Determining the emerging technologies and strategies that have the potential to provide the most significant impacts;
- Encouraging municipalities to take significant steps to integrate emerging technologies into their day-to-day operations;
- Identifying the barriers to implementing the grant program and communicating those barriers to the Legislature and appropriate agencies and organizations;
- Leveraging the initial grant to attract additional public and private investments;
- Increasing the state's competitiveness in the pursuit of grants from the USDOT, the United States Department of Energy (USDOE), and other federal agencies;
- Committing to the continued operation of programs implemented in connection with the grant;
- Serving as a model for municipalities nationwide;
- Documenting the costs and impacts of the grant program and lessons learned during implementation; and
- Identify solutions that will demonstrate local or regional economic impact.

The FDOT is directed to develop eligibility, application, and selection criteria for the program grants and a plan for the promotion of the grant program to municipalities or regions of the state as an opportunity to compete for grant funding, including the award of grants to a single recipient and secondary grants to specific projects of merit within other applications. The FDOT may contract with a third party demonstrating knowledge and expertise in that section's focuses and goals to provide guidance in the development of that section's requirements.

The FDOT must submit the grant program guidelines and plans for promotion of the program to the Governor, Senate President, and House Speaker on or before January 1, 2018. Lastly, the new s.316.0898, F.S., expires on July 1, 2018.⁵

Natural Gas-Fueled Vehicle Weight (Section 2)

Present Situation:

Motor Vehicle Weights and Overweight Penalties

The rate of damage to roads and bridges generally increases as vehicle weight increases, resulting in higher maintenance and replacement costs and potentially creating unsafe conditions. Maximum legal vehicle weights are established for all public roads and bridges and allow compliant vehicles to travel most public highways of the state without causing excessive road damage or bridge failures. However, some roads and bridges have lower weight limits due to their age, condition, or design, and these facilities have posted weight limits; *i.e.*, their lower weight limits are identified through signage at the facility. Vehicles exceeding the maximum weight limits on a facility, including posted facilities, are presumed to have damaged the highways of the state and are subject to fines.⁶

⁵ SB 2500 currently authorizes the FDOT to use up to \$75,000 to establish the Florida Smart City Challenge Grant Program.

⁶ See ss. 316.545 and 316.555, F.S.

Gross vehicle weight is the total weight of a vehicle (or combination of vehicles) and any cargo carried by the vehicle.⁷ Federal and state laws generally provide that gross vehicle weight may not exceed 80,000 pounds for both the interstate and non-interstate highway system,⁸ or the maximum allowed by the Federal Bridge Formula.⁹ In Florida, the maximum weight limit is 22,000 pounds on a single axle, and 44,000 pounds on a tandem axle.¹⁰ These limits do not apply to those vehicles and loads that cannot be easily dismantled or divided (*i.e.*, “non-divisible”), or to other vehicles exceeding the maximum weight limits, if a special permit has been issued in accordance with applicable state laws.¹¹

However, the vehicle’s number of axles and the distance between the axles in part controls a vehicle’s maximum allowable weight. Thus, a vehicle’s maximum allowable gross weight may be reduced because the concentration of weight on a particular axle may reach unacceptable limits. For example, pavement and bridge stress is greater for a 30-foot truck with two axles and a gross vehicle weight of 50,000 pounds than a 54-foot tractor-trailer combination of the same weight because the tractor-trailer distributes the load over a greater area. Therefore, the 30-foot truck will have a lower maximum allowable weight.

For weight violations, including violations of weight criteria contained in a special permit, the penalty is as established in s. 316.545(3)(a), F.S., *i.e.*, \$10 for 200 pounds or less and 5 cents per pound for each pound over 200 pounds. Unlawful axle weights are penalized at \$10 for the first 600 pounds, if the gross weight of the vehicle (or vehicle combination) does not exceed the maximum allowable gross weight.¹²

For each violation of the operational or safety restrictions established in a special permit, *e.g.*, using a restricted bridge, the penalty may be as high as \$1,000. However, the cumulative total for multiple violations may not exceed \$1,000.¹³

These penalties are deposited into the State Transportation Trust Fund and used for roadway maintenance and repair.¹⁴

Cargo Capacity of Vehicles Fueled by Natural Gas Compared to Gasoline or Diesel-Fueled Vehicles

According to the U.S. Department of Energy, about 150,000 vehicles in this country are powered by natural gas, many of which are heavy-duty vehicles.¹⁵ Natural gas vehicles (NGVs) are reported to be similar to gasoline or diesel-fueled vehicles with respect to power, acceleration,

⁷ Section 316.003(27), F.S.

⁸ See 23 U.S.C. 127 (2015) and s. 316.535, F.S.

⁹ This formula is used to determine the maximum allowable weight that any set of axles on a motor vehicle may carry on the Interstate Highway System. For further detail, see the Federal Highway Administration website: http://ops.fhwa.dot.gov/freight/sw/brdgcalc/calc_page.htm. (Last visited January 20, 2017.)

¹⁰ See the Florida Highway Patrol *Commercial Motor Vehicle Manual*, July 2016, at p. 8, available at: <https://www.flhsmv.gov/fhp/CVE/2015truckingmanual.pdf>. (Last visited January 26, 2017.)

¹¹ 23 U.S.C. 127(a) (2015) and s. 316.550, F.S...

¹² Section 316.545(3)(a), F.S.

¹³ 316.550(10)(c), F.S.

¹⁴ Section 316.545(6), F.S.

¹⁵ See the U.S. Department of Energy Alternative Fuels Data Center website available at: http://www.afdc.energy.gov/vehicles/natural_gas.html. (Last visited November 18, 2016.)

and cruising speed; and the use of natural gas as fuel provides additional advantages, such as its domestic availability, its relative low cost, and lower emissions.¹⁶ However, these advantages may be offset by displacement of cargo capacity, due to the heavier weight of NGV fueling systems relative to gasoline or diesel systems.¹⁷

Fast Act Natural Gas Vehicle Weight Allowance

The Fixing America's Surface Transportation Act (FAST Act), which authorized Federal surface transportation programs for fiscal years 2016-2020, contained a number of incentives for natural gas. In apparent recognition of the potential displacement of cargo capacity due to the heavier weight of NGVs, the FAST Act authorized a vehicle, if operated by an engine fueled primarily¹⁸ by natural gas, to exceed any (single axle, tandem axle and bridge formula) weight limit (up to a maximum gross vehicle weight of 82,000 pounds) by an amount that is equal to the difference between:

- The weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle, and
- The weight of a comparable diesel tank and fueling system.¹⁹

The Federal Highway Administration (FHWA) has advised states to review state statutes, regulations, and procedures, as well as load rating and posting calculations and enforcement practices, for necessary updating.²⁰ Further, the FHWA noted that while the federally increased weight allowance does not preempt a state from enforcing *state* weight limits on all highways, it does “prevent[] the FHWA from imposing funding sanctions if a state authorizes the additional weight limit on its Interstate system.”²¹

Florida law has long adhered to the general maximum weight limits contained in the Federal law,²² and the FDOT issues special permits for vehicles transporting non-divisible loads and for other vehicles exceeding maximum weight limits.²³ Florida law currently grants a 500-pound weight allowance for idle reduction technology consistent with federal law, but does not authorize the additional weight for NGVs allowed in the FAST Act.²⁴

FDOT Permitting of NGVs

In response to the FAST Act, the FDOT performed an assessment to determine if any bridges, other than those currently posted for weight, would require posting because of the additional

¹⁶ *Id.* at: http://www.afdc.energy.gov/fuels/natural_gas_benefits.html. (Last visited November 18, 2016.)

¹⁷ *Id.*... “The driving range of NGVs is generally less than that of comparable conventional vehicles because of the lower energy density of natural gas. Extra storage tanks can increase range, but the additional weight may displace cargo capacity.”

¹⁸ Some NGVs are fueled solely by natural gas, some are bi-fueled with two separate fueling systems that enable them to run on either natural gas or gasoline, and some are dual-fueled. Dual-fueled vehicles “are traditionally limited to heavy-duty application, have fuel systems that run on natural gas, and use diesel fuel for ignition assistance.” *Supra* note 8.

¹⁹ P.L. 114-94, s. 1410 (2015). *See also* the Federal Highway Administration Memorandum dated February 24, 2016, *Information: Fixing America's Surface Transportation Act (FAST Act) Truck Size and Weight Provisions*. (On file in the Senate Transportation Committee.)

²⁰ *Id.*, Memorandum Question and Answer 16.

²¹ *Id.*, Question and Answer 14.

²² *See* s. 316.535, F.S.

²³ *See* s. 316.550, F.S.

²⁴ Section 316.545(3)(b), F.S.

weight allowance for NGVs authorized in the Act. The FDOT advises that the study concluded that the additional weight of NGVs would not require bridges to be re-load rated or posted.²⁵ The FDOT also developed a permit process in June of 2016 to allow the operation of NGVs at the new Federal weight limits, but no permits were issued, perhaps because the industry is unaware of the need for such a permit.²⁶ As a result, the FDOT estimates that approximately 292 citations²⁷ have been issued, totaling \$375.00 in fines, 15 of which have been contested before the Commercial Motor Vehicle Review Board.²⁸ The FDOT advises no relief was granted for any of the 15 contested citations.²⁹

Effect of Proposed Changes:

Section 2 amends s. 316.545(3), F.S., to provide for a specified reduction in the actual gross weight of an NGV, when calculating the penalty for exceeding maximum weight limits, so long as the actual gross weight of the vehicle does not exceed 82,000 pounds, exclusive of the existing 500-pound weight allowance for idle reduction technology. The bill will create greater uniformity between federal and state law, which is especially important for truck drivers doing interstate business, and avoids a potential withholding of federal funds.

If an NGV is found to be overweight, then the penalty will be calculated by reducing the actual gross vehicle weight by the certified difference in weight between the natural gas tank and fueling system carried by that vehicle, and a comparable diesel tank and fueling system, before applying the currently applicable penalty. If the actual gross weight of the NGV exceeds 80,000 pounds plus the certified weight difference, a penalty of \$.05 per pound of excess weight could be assessed.

If the NGV is also equipped with idle reduction technology, the penalty will be calculated by reducing the actual gross vehicle weight by the certified difference in weight between the natural gas tank and fueling system carried by that vehicle and a comparable diesel tank and fueling system, and by an additional 500 pounds. If the actual gross weight of the NGV with idle reduction technology exceeds 80,500 pounds plus the certified weight difference, a penalty of \$.05 per pound of excess weight could be assessed.

The bill contains a proof requirement; *i.e.*, the vehicle operator must present a written certification that identifies the weight of the natural gas tank and fueling system, and the difference in weight of a comparable diesel tank and fueling system, upon request of a weight inspector or a law enforcement officer. The certification must originate from the vehicle manufacturer or the installer of the natural gas tank and fueling system.

The bill excludes vehicles described in s. 316.535(6), F.S., from qualifying for the reduced calculation. These vehicles, typically called straight trucks, include dump trucks, concrete

²⁵ See the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

²⁶ *Id.*

²⁷ The FDOT notes this estimate is based on a search for companies that utilize NGVs and received an overweight citation in the last year. Because the citation form is not designed to specify this particular infraction, some of the 292 cases may not be related to the FAST Act. *Id.*

²⁸ Section 316.545(7), F.S., establishes the Board within the FDOT and authorizes the Board to review any penalty imposed under chapter 316, F.S.

²⁹ *Supra* note 11.

mixing trucks, trucks engaged in waste collection and disposal, and fuel oil and gasoline trucks designed and constructed for special type work. The cargo unit and the power unit on these trucks sit on the same frame,³⁰ meaning that the concentration of weight is greater than, for example, a combination vehicle with an axle configuration that distributes the weight over a greater area. These vehicles continue to be limited to a gross weight of 70,000 pounds.

Autonomous Vehicle Alert System Clarification (Section 5)

Present Situation:

Section 316.003(2), F.S., defines “autonomous vehicle” as any vehicle equipped with autonomous technology. That subsection also includes a definition of “autonomous technology,” which means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed *without the active control or monitoring by a human operator*.³¹ If a vehicle is equipped with technology that requires the active control or monitoring by a human operator, that vehicle does not meet the definition of “autonomous vehicle” under Florida law.

Section 316.85, F.S., authorizes a person who possesses a valid driver license to operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology as defined in s. 316.003(2), F.S. A person is deemed to be the operator of an autonomous vehicle operating in autonomous mode when the person causes the vehicle’s autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode. Thus, under Florida law, an autonomous vehicle may be operated in autonomous mode even if a person is not physically present in the vehicle.

Section 319.145, F.S., requires autonomous vehicles registered in this state to:

- Have a system to safely alert the operator if an autonomous technology failure is detected while the technology is engaged. When an alert is given, the *system* must:
 - Require the operator to take control of the autonomous vehicle; or
 - If the operator does not, or is not able to, take control of the autonomous vehicle, be capable of bringing the vehicle to a complete stop.
- Have a means inside the vehicle to visually indicate when the vehicle is operating in autonomous mode; and
- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

Effect of Proposed Changes:

Section 5 of the bill amends s. 319.145, F.S., to clarify system requirements when an alert is given. The bill provides that if the *human* operator does not, or is not able to, take control of the

³⁰ See s. 316.003(76), F.S.

³¹ The latter definition does not include a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to *drive without the active control or monitoring by a human operator*.

autonomous vehicle, *or if a human operator is not physically present in the vehicle*, the system must be capable of bringing the vehicle to a complete stop. This revision is consistent with current law allowing an autonomous vehicle to operate in autonomous mode without a person physically present in the vehicle.

Transportation Network Companies/Autonomous Vehicles/Insurance (Section 3)

Present Situation: Technological advances have led to new methods for consumers to arrange and pay for transportation, including software applications that make use of mobile smartphone applications, Internet web pages, and email and text messages. Ridesharing companies, such as Lyft, Uber, and SideCar, describe themselves as “transportation network companies” (TNCs), rather than as vehicles for hire.

TNCs use smartphone technology to connect individuals who want to ride with private drivers for a fee. A driver logs onto a phone application and indicates the driver is ready to accept passengers. Potential passengers log on, learn which drivers are nearby, see photographs, receive a fare estimate, and decide whether to accept a ride. If the passenger accepts a ride, the driver is notified and drives to pick up the passenger. Once at the destination, payment is made through the phone application.

Drivers generally use their personal vehicles, and most personal automobile insurance policies contain a “livery” exclusion that excludes coverage if the vehicle is carrying passengers for hire.³² Consequently, most personal automobile insurance policies do not cover damage or loss when a car is being used for commercial ridesharing. Some ridesharing companies provide insurance for portions of the time when the driver is transporting passengers, but such insurance is not required. This could lead to situations where drivers and passengers are involved in accidents and there is no insurance coverage. In contrast, taxis and limousines must maintain a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, up to \$250,000 per incident for bodily injury, and \$50,000 for property damage.³³

Issues relating to insurance coverage for TNCs, and other TNC-related matters, have been under review by the Florida Legislature in recent years. The Florida Senate is currently considering legislation that would create uniform statewide minimum insurance requirements for TNCs and TNC drivers. Generally, when a TNC driver is logged onto the digital network³⁴ but not engaged in a prearranged ride,³⁵ the legislation requires:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;

³² The exclusion in Florida law is mentioned in s. 627.041(8), F.S.

³³ Section 324.032(1)(a), F.S.

³⁴ CS/CS/SB 340 currently defines “digital network” to mean any online-enabled technology application service, website, or system offered or used by a TNC that enables the prearrangement of rides with TNC drivers.

³⁵ CS/CS/SB 340 currently defines “prearranged ride” to mean the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports the rider, and ending when the last rider exits from and is no longer occupying the TNC vehicle.

- Personal Injury Protection (PIP) benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405, F.S.;³⁶ and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.³⁷

When a TNC driver is engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine³⁸ under ss. 627.730-627.7405, F.S.; and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.³⁹

Interest in the use of autonomous vehicles in ridesharing services is increasing, including with respect to fully autonomous vehicles that do not require drivers. General Motors reportedly paid \$500 million for a stake and strategic alliance in Lyft to develop the use of autonomous vehicles in ridesharing and recently spent \$1 billion to buy a technology company that has self-driving cars on roads in California.⁴⁰ Current Florida law does not specifically address insurance requirements for autonomous vehicles, or for autonomous vehicles used by TNCs.

Effect of Proposed Changes:

Section 3 of the bill creates s. 316.851, F.S., with an effective on the same date that the TNC legislation currently under consideration, or similar legislation, takes effect, if such legislation is enacted in the 2017 Regular Session or in any extension thereof. In that case, the bill would require an autonomous vehicle used by a TNC *to provide a prearranged ride* to be covered by automobile insurance as required by s. 627.748, F.S., created in that TNC legislation, regardless of whether a human operator is physically present in the vehicle when the ride occurs. As the legislation currently stands, the required coverage would be primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage, and uninsured and underinsured vehicle coverage as required by s. 627.727, F.S. The coverage ultimately specified in that legislation, if enacted, would be required coverage for an autonomous vehicle used by a

³⁶ These provisions, known as the No-Fault Law, require coverage for PIP to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits.

³⁷ Section 627.727(1), F.S., requires uninsured motorist vehicle coverage if a policy provides bodily injury coverage unless it is specifically rejected.

³⁸ Although the legislation currently requires PIP coverage at the same amounts required of limousines, limousines are excluded from PIP requirements under s 627.733(1)(a), F.S. Thus, the effect of this provision should it remain in the TNC legislation and be enacted would be to require no PIP coverage when an autonomous vehicle is engaged in a prearranged ride, regardless of whether a human operator is physically present in the vehicle when the ride occurs.

³⁹ See the CS/CS/SB 340 staff analysis for additional information and details of the legislation, available at: <http://www.flsenate.gov/Session/Bill/2017/340/Analyses/2017s00340.rc.PDF>. (Last visited April 24, 2017.)

⁴⁰ See *Autonomous Cars with Ridesharing Key to GM's Vision for Future Mobility*, available at: <http://www.autotrader.com/car-shopping/autonomous-cars-with-ridesharing-key-to-gms-vision-for-future-mobility-254768>. See also *Ford Targets Fully Autonomous Vehicle for RideSharing in 2021; Invests in New Tech Companies, Doubles Silicon Valley Team*, available at <https://media.ford.com/content/fordmedia/fna/us/en/news/2016/08/16/ford-targets-fully-autonomous-vehicle-for-ride-sharing-in-2021.html>. (Last visited April 14, 2017.)

TNC to provide prearranged transportation, regardless of the presence or absence of a human driver.

The bill further requires an autonomous vehicle logged on to a digital network but not engaged in a prearranged ride to maintain insurance coverage as defined in s. 627.748(7)(b), F.S. As the TNC legislation currently stands, subsection (7)(b) requires during the identified period of time:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;
- PIP benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405, F.S.;⁴¹ and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

The bill also requires an autonomous vehicle used to provide a transportation service to carry in the vehicle proof of the required coverage at all times while operating in autonomous mode.

Automated Mobility Districts (Section 4)

Present Situation:

The USDOE Office of Energy Efficiency and Renewable Energy (EERE) partners with business, industry, universities, and other organizations with a focus on using renewable energy and energy efficiency technologies. One of EERE's functions is to encourage the growth of such technologies by offering funding opportunities for their development and demonstration.⁴² According to the EERE, most grants are selected competitively through funding opportunity announcements (FOAs) and solicitations that occur from time to time. FOA's are posted online with directions and information for finding funding opportunities, for applying for funding, and for managing awards, as well as necessary forms.⁴³

The National Renewable Energy Laboratory (NERL) is a research arm of the USDOE. The NERL in a recent study introduced the term "automated mobility districts" to describe a campus-sized implementation of automated vehicle technology to realize the benefits of fully-automated vehicle mobility service. Such districts are envisioned to use fully automated and driverless vehicles, service is confined to a geographic boundary that encompasses a relatively dense area of trip attractions, and mobility within the district is restricted to or dominated by automated vehicles. The NERL has concluded that its initial study "points to the need to better understand ride-sharing scenarios and calls for future research on sustainability benefits of an AMD system at both vehicle and system levels."⁴⁴

⁴¹ These provisions, known as the No-Fault Law, require coverage for personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits.

⁴² See the EERE website available at: <https://www.energy.gov/eere/funding/eere-funding-opportunities>. (Last visited April 14, 2017.)

⁴³ *Id.*

⁴⁴ See *Estimate of Fuel Consumption and GHG Emission Impact on an Automated Mobility District*, Chen, Young, Gonder, and Qi, presented at the 4th International Conference on Connected Vehicles & Expo in Shenzhen, China, October 19-23, 2015, available at: <http://www.nrel.gov/docs/fy16osti/65257.pdf>. (Last visited April 14, 2017.)

Effect of Proposed Changes:

Section 4 of the bill creates s. 316.853, F.S., to define the term “automated mobility districts” to mean a master planned development or combination of contiguous developments in which the deployment of autonomous vehicles as defined in s. 316.003, F.S., as the basis for a shared mobility system is a stated goal or objective of the development or developments. The FDOT is directed to designate such districts. In determining eligibility of a development for such designation, the FDOT must consider applicable criteria from federal agencies for autonomous mobility districts and apply those criteria to eligible developments in the state.

According to proponents, this proposed statute is expected to increase the likelihood of receiving approval of federal grant applications for funding opportunities associated with the deployment of autonomous vehicles in Florida.

Bridge Inspection Frequency (Section 6)***Present Situation:***National Bridge Inspection Standards

Federal law requires the U.S.D.O.T. Secretary, in consultation with states and Federal agencies having jurisdiction, to inventory all highway bridges on public roads; to classify the bridges according to serviceability, safety, and essentiality for public use; and to assign each bridge a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.⁴⁵ The Federal-aid Highway Act of 1968 required the Secretary to develop regulations establishing national bridge inspection standards with the primary purpose of locating and evaluating existing bridge deficiencies to ensure the safety of the traveling public. The current standards are specified in 23 C.F.R. 650, Subpart C, and apply to all highway bridges located on all public roads.

States are required by the standards to inspect all highway bridges located on public roads that are fully or partially located within the state, except for bridges owned by Federal agencies. Inspections are to be conducted in accordance with the American Association of State Highway and Transportation Officials *Manual for Condition Evaluation of Bridges*, which “serves as a standard and provides uniformity in the procedures and policies for determining the physical condition, maintenance needs, and load capacity of the Nation’s highway bridges.”⁴⁶

National Inspection Frequency Revisions

Before 2005, with specific reference to frequency of bridge inspections, the national standards generally required each bridge to be inspected at regular intervals not to exceed two years but recognized that certain bridges require inspection at less than two-year intervals. Those earlier standards also recognized that the maximum inspection interval for certain bridges could be appropriately increased in cases in which past inspection reports and favorable experience and analysis justified an increase. States were authorized to submit a detailed proposal and

⁴⁵ See 23 U.S.C. 144 (2015).

⁴⁶ *Federal Register*, Vol. 74, no. 246, Thursday, December 24, 2009, at 68378.

supporting data for approval of an increased interval, but in no case could the maximum time period between inspections exceed four years.

Changes to the standards, effective January 13, 2005, among other items, included expansion of the bridge inspection frequency provisions, such that the FDOT is required to:

- Inspect each bridge at regular intervals not exceeding 24 months for routine inspections;⁴⁷ establish criteria to determine the level and frequency of inspection of bridges at less than 24-month intervals, considering such factors as age, traffic characteristics, and known deficiencies; and seek written approval from the Federal Highway Administration (FHWA) to inspect certain bridges at greater than 24-month intervals if past inspection findings and analyses justify an increased interval.
- Inspect underwater structural elements at regular intervals not exceeding 60 months; establish criteria to determine the level and frequency of inspection of these elements at less than 60-month intervals, considering such factors as construction material, environment, age, scour characteristics, condition rating from past inspections, and known deficiencies; and seek written approval from the FHWA to inspect certain underwater structural elements at greater than 60-month intervals, but not exceeding 72 months, if past inspection findings and analysis justify an increased interval.
- Inspect fracture critical members (FCMs)⁴⁸ at intervals not to exceed 24 months; establish criteria to determine the level and frequency of inspection of FCMs at less than 24-month intervals, considering such factors as age, traffic characteristics, and known deficiencies; and establish criteria to determine the level and frequency of damage, in-depth, and special inspections.⁴⁹

Compliance Reviews

States are subject to an annual review for compliance with the national standards using 23 metrics⁵⁰ that contain criteria for assessing a state's compliance with each metric. A state is notified of any finding of noncompliance and provided an opportunity for correction. If a state ultimately remains noncompliant, the penalty is that the state must dedicate certain funds that would otherwise be available for projects to correcting the noncompliance.⁵¹ The FDOT advises it has received no such notification.⁵²

⁴⁷ "Routine inspection" is defined as a regularly scheduled inspection consisting of observations and/or measurements needed to determine the physical and functional condition of the bridge, to identify any changes from initial or previously recorded conditions, and to ensure that the structure continues to satisfy present service requirements. 23 C.F.R. 650.305 (4-1-16).

⁴⁸ "Fracture critical member" is defined as a member in tension, or with a tension element, whose failure would probably cause a portion of or the entire bridge to collapse. A "fracture critical member inspection" is defined as a hands-on inspection of a fracture critical member or member components that may include visual and other non-destructive evaluation. *Id.*

⁴⁹ "Damage inspection" is defined as an unscheduled inspection to assess structural damage resulting from environmental factors or human actions. "In-depth inspection" is defined as a close-up inspection of one or more members above or below the water level to identify any deficiencies not readily detectable using routine inspection procedures, with hands-on inspection being necessary at some locations. "Special inspection" is defined as an inspection scheduled at the discretion of the bridge owner, used to monitor a particular known or suspected deficiency. *Id.*

⁵⁰ See the *Federal Register*, Vol. 79, No. 91, Monday, May 12, 2014, for a listing of each metric and citations to their locations in the Code of Federal Regulations, as well as an overview of the compliance review process.

⁵¹ These are National Highway Performance Program funds and Surface Transportation Block Grant Program funds. See 23 U.S.C. 144(h)(5) (2015).

⁵² Telephone conversation with the FDOT staff, January 26, 2017.

Florida Bridge Inspection Law

The existing Florida Statutes do not comply with the described national bridge inspection frequency provisions. Currently, Florida law requires the governmental entity having maintenance responsibility for each bridge on a public transportation facility to inspect such bridges at regular intervals not to exceed two years.^{53, 54}

The FDOT does have already-established criteria for routine inspections at intervals not exceeding 24 months, and for certain other inspection levels and frequencies for bridges determined to require inspection at less than 24-month intervals.⁵⁵ However, because of the existing state mandate for inspection of each bridge at intervals *not exceeding* 2 years, the FDOT has not developed nor sought written approval from the FHWA for the inspection intervals, criteria, and FHWA approvals required by the revised national standards.

Effect of Proposed Changes:

Section 6 amends s. 335.074(2), F.S., to require bridge inspections at regular intervals *as required by the Federal Highway Administration*, rather than at intervals not exceeding 2 years. This revision will allow the FDOT to seek FHWA approval of its existing procedures, develop and establish the criteria for the required increased inspection intervals, and obtain the FHWA's approval, consistent with the revised national standards. A potential but likely insignificant⁵⁶ diversion of federal funds from actual projects to noncompliance correction is avoided.

Highway Memorial Markers/Traffic-Related Fatalities (Section 7)

Present Situation:

Current Florida law contains no provision specifically relating to the placement of roadside memorial markers at or near the location of traffic-related fatalities on the State Highway System.⁵⁷ Current state law also contains no provision addressing the use of belief system symbols or imagery on roadside memorial markers. Research suggests some states ban roadside markers outright as a matter of safety, without regard to symbols or imagery. Other states, including Florida, have programs or policies for roadside markers that use a standard round sign with a safety message, such as, "Drive Safely," with the deceased person's name on the sign. Still other states appear to allow roadside memorials for a limited time, after which they are removed, but whether those memorials may display belief system symbols or imagery is not clear. Arizona's Roadside Memorial *Policy* allows markers to "incorporate various types of symbols."⁵⁸

⁵³ Section 335.074(2), F.S.

⁵⁴ Section 335.074(3)(b), F.S., requires each governmental entity to report its inspections to the FDOT.

⁵⁵ See the FDOT Procedure 850-010-030-j, section 3.2. (Copy on file in the Senate Transportation Committee.)

⁵⁶ Telephone conversation with the FDOT staff February 1, 2017.

⁵⁷ Section 334.044(24), F.S., defines "State Highway System" as the interstate system and all other roads within the state that were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities are facilities to which access is regulated.

⁵⁸ Copy available at: <http://azdot.gov/docs/default-source/about/roadside-memorial-policy.pdf?sfvrsn=0>. (Last visited April 5, 2017.)

Emblems of belief are allowed under certain conditions in National Cemeteries. The U.S. Department of Veterans Affairs National Cemetery Administration (Administration) prohibits graphics, logos, or symbols on government-furnished headstones or markers placed in National Cemeteries, other than the available emblems of belief, the Civil War Union Shield, the Civil War Confederate Southern Cross of Honor, and the Medal of Honor insignias.

An “emblem of belief” is defined in federal regulations to mean an emblem that represents the decedent’s religious affiliation or sincerely held religious belief system, or a sincerely held belief system that was functionally equivalent to a religious belief system in the life of the decedent. In the absence of evidence to the contrary, the Veterans Administration will accept as genuine an applicant’s statement regarding the sincerity of the religious or functionally equivalent belief system of a deceased eligible individual. The religion or belief system represented by an emblem need not be associated with or endorsed by a church, group or organized denomination. Emblems of belief do not include social, cultural, ethnic, civic, fraternal, trade, commercial, political, professional or military emblems.^{59, 60}

Emblems of belief for inscription on government-furnished headstones and markers may be requested by the decedent’s next of kin, a person authorized in writing by the next of kin, or a personal representative authorized in writing by the decedent.⁶¹

After establishing the decedent’s initial eligibility, emblems of belief not available for inscription on headstones and markers may be requested by application that contains:

- Certification by the applicant that the proposed new emblem represents the decedent’s religious affiliation or sincerely held religious belief system, or a sincerely held belief system that was functionally equivalent to a religious belief system in the life of the decedent;⁶² and
- A three-inch diameter digitized black and white representation of the requested emblem that can be reproduced in a production-line environment.⁶³

In the absence of evidence to the contrary, the Administration will accept as genuine an applicant’s statement regarding the sincerity of the religious or functionally equivalent belief system. If a dispute arises, federal regulation provides for resolution first in accordance with any specific instructions given by the decedent, second in accordance with the instructions of the decedent’s surviving spouse and, if no surviving spouse, in accordance with the agreement and written consent of the decedent’s living next of kin.⁶⁴

Effect of Proposed Changes:

Section 7 of the bill creates s. 335.094, F.S., relating to highway memorial markers, modeled after the National Cemetery regulations. Recognizing the FDOT’s mission to provide a safe transportation system, the bill expresses Legislative intent that the FDOT allow the use of

⁵⁹ 38 C.F.R. 38.632(b)(2) (7-1-16).

⁶⁰ See the Administration’s website, which reflects the currently approved emblems of belief, available at: <https://www.cem.va.gov/hmm/emblems.asp>. (Last visited April 14, 2017.)

⁶¹ 38 C.F.R. 38.632(b)(1) (7-1-16).

⁶² 38 C.F.R. 38.632(e)(1) (7-1-16).

⁶³ 38 C.F.R. 38.632(e)(2) (7-1-16).

⁶⁴ 38 C.F.R. 38.632(g) (7-1-16).

highway memorial markers at or near the location of traffic-related fatalities on the State Highway System to raise public awareness and remind motorists to drive safely, by memorializing people who have died as a result of a traffic-related crash.

The FDOT is required to establish a process, including any forms deemed necessary, for submitting applications for installation of memorial markers. The bill authorizes the following individuals to submit applications:

- A member of the decedent's family, which includes the decedent's spouse; a child, parent, or sibling of the decedent, whether biological, adopted, or step relation; and any lineal or collateral descendant of the decedent; or
- Any individual who is responsible under the laws of this state for the disposition of the unclaimed remains of the decedent or for other matters relating to the interment or memorialization of the decedent.

The FDOT must establish criteria for the design and fabrication of the markers, including, but not limited to, marker components, fabrication material, and size.

At no charge to the applicant, the FDOT is authorized to install a marker described as a round aluminum sign panel with white background and black letters uniformly inscribed "Drive Safely, In Memory Of" followed by the decedent's name.

On request of the applicant and payment of a reasonable fee set by the FDOT to offset production costs, the marker may incorporate the available emblems of belief approved by the National Cemetery Administration. An applicant may request a new emblem not specifically approved by the Administration for inscription on a marker as follows:

- The applicant must certify that the propose new emblem represents the decedent's religious affiliation or sincerely held religious belief system, or a sincerely held belief system that was functionally equivalent to a religious belief system in the life of the decedent.
- In the absence of evidence to the contrary, the FDOT is directed to accept as genuine an applicant's statement of the religious or functionally equivalent belief system of a decedent.

If the FDOT determines that any application is incomplete, the FDOT is directed to notify the applicant in writing of the missing information, and that no further action on the application will be taken until the missing information is provided.

For any approved application, the FDOT is directed to place a memorial marker at or near the location of the fatality in a fashion that reduces driver distraction and positions the marker as near the right-of-way line as possible.

Lastly, the bill provides that memorial markers are intended to remind passing motorists of the dangers of unsafe driving and are not intended for visitation, and directs the FDOT to remove a marker if the FDOT determines its presence creates a safety hazard. In such cases, the FDOT is directed to post a notice near where the marker was located indicating the marker has been removed and provide contact information for pickup of the marker. The FDOT must store any removed marker for 60 days and may thereafter, at its discretion, dispose of any marker not claimed.

Fast Response Contracts Cap (Section 8)

Present Situation:

FDOT Contracting Authority

Generally, the FDOT is authorized to enter into contracts for the construction and maintenance of all roads designated as part of the State Highway System, the State Park Road System, or of any roads placed under its supervision by law. This authorization includes construction and maintenance contracts for rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities and associated buildings used in connection with such facilities. With certain exceptions, these contracts must be advertised for competitive bidding, and such contracts generally must be awarded to the lowest responsible bidder.⁶⁵

Required Surety Bond

A successful bidder on a construction or maintenance contract is required to post a surety bond in an amount equal to the awarded contract price with certain exceptions. One exception is the FDOT's authorization to waive all or a portion of the bond requirement if the contract price is \$250,000 or less, and if the FDOT determines that the project is of a noncritical nature and that nonperformance will not endanger public health, safety, or property.⁶⁶ With respect to construction contracts, the FDOT may waive all or a portion of a bond for contracts of \$150,000 or less if the FDOT makes the same determination.⁶⁷

Fast Response Contracting Cap

One of the exceptions to the competitive bidding requirement currently authorizes the FDOT, under certain conditions, to enter into construction and maintenance contracts, up to the amount of \$120,000, without advertising and receiving competitive bids. The FDOT may exercise this authority when the FDOT determines that doing so is in the best interest of the public for reasons of public concern, economy, or improved operations or safety, and only when circumstances dictate rapid completion of the work:

- To ensure timely completion of projects or avoidance of undue delay for other projects;
- To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or
- To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.⁶⁸

The FDOT is required to make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract and give consideration to disadvantaged business enterprise participation. If, however, the work exists within the limits of an existing contract, the FDOT must make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract. These contracts fund projects such as

⁶⁵ Section 337.11, F.S.

⁶⁶ Section 337.18(1), F.S.

⁶⁷ Section 337.14(2), F.S.

⁶⁸ Section 337.11(6)(c), F.S.

sinkhole repairs that protect roadways and other infrastructure, traffic railing and guardrail repairs needed to protect the safety of the traveling public, and drainage and inlet work that prevents roadway flooding during heavy rain.

When first enacted in 1999, the threshold amount was set at \$60,000,⁶⁹ and the Legislature increased that amount to the current \$120,000 in 2002.⁷⁰

Construction Costs and Inflation

The FDOT advises that the usefulness of this statute has been limited by increased construction costs due to inflation and notes the only issue with meeting the conditions outlined in the statute is the current \$120,000 cap. The FDOT performed an analysis to reach an approximate estimate of the current \$120,000 contract cap converted to present-day costs, concluding that the current cap, adjusted for inflation, amounts to over \$200,000.⁷¹ The FDOT advises that increasing the current cap to \$250,000 “will account for increased construction costs and extend the Department’s ability to quickly respond to construction and maintenance needs that are in the best interest of safety and the economy.”⁷²

Effect of Proposed Changes:

Section 8 amends s. 337.11(6)(c), F.S., to increase the current \$120,000 threshold amount to \$250,000. The FDOT will be authorized to enter into maintenance and construction contracts, after making the necessary determination and when circumstances dictate rapid completion of the work, up to a contract amount of \$250,000. The FDOT’s described authority to waive all or a portion of a required surety bond remains unchanged.

Turnpike Revenue Bonds/Bond Validation (Sections 9 and 15)

Present Situation:

Bond Validation

The Division of Bond Finance (DBF) is authorized to issue revenue bonds on behalf of the FDOT to finance or refinance the cost of legislatively approved turnpike projects in accordance with s. 11(f), Art. VII of the State Constitution.⁷³ The state or its agencies may issue revenue bonds without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects⁷⁴ authorized by law, and purposes incidental thereto, which bonds are payable solely

⁶⁹ Ch. 99-385, Laws of Fla.

⁷⁰ Ch. 2002-20, Laws of Fla.

⁷¹ See the FDOT’s Office of Policy Planning document, *Advisory Inflation Factors for Previous Years (1987-2016)*, available at: <http://www.fdot.gov/planning/policy/costs/retrocostinflation.pdf>. (Last visited January 25, 2017.)

⁷² See the FDOT’s 2017 Legislative Proposal, *Rapid-Response Contracts-Price Increase*. (On file in the Senate Transportation Committee.)

⁷³ Section 338.227(3), F.S.

⁷⁴ Defined in s. 216.011(1)(p), F.S., to mean the appropriation category used to fund real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.), including additions, replacements, major repairs, and renovations to real property which materially extend its useful life or materially improve or change its functional use and including furniture and equipment necessary to furnish and operate a new or improved facility, when appropriated by the Legislature in the fixed capital outlay appropriation category.

from funds other than state tax revenues; e.g., toll revenues.⁷⁵ The DBF must submit a proposed bond issuance for approval by the State Board of Administration.⁷⁶ The Board, by resolution, may authorize the DBF to issue bonds on behalf of a state agency at one time or from time to time,⁷⁷ and the Board must approve all bonds to be issued by the DBF as to fiscal sufficiency.⁷⁸

Once approved, such bonds must be validated under ch. 75, F.S.⁷⁹ In a bond validation proceeding, the entity authorized by law to issue bonds files a complaint to establish its authority to incur bonded debt, as well as the legality of all proceedings in connection with the bond issuance.⁸⁰ A final judgment validating such bonds is “forever conclusive” and may not be challenged in any court by any person or party.⁸¹

As described by the DBF with specific reference to Turnpike bonds:

Bond validation is a judicial procedure through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government’s pledge to repay the bonds. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.⁸²

Required Notice Publication

In any action to validate bonds issued pursuant to s. 338.227, F.S., the complaint must be filed in the circuit court of Leon County, and the notice required by s. 75.06, F.S., must be published in a newspaper of general circulation *in Leon County and in two other newspapers of general circulation in the state*.⁸³ The complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending (the Second Circuit).

Section 75.06(2), F.S., requires the clerk, before the date set for hearing on a complaint to validate Turnpike bonds, to publish a copy of the court’s order requiring appearance at the hearing in Leon County at least once each week for two consecutive weeks, commencing with

⁷⁵ See also s. 215.59(2) and s. 215.79, F.S.

⁷⁶ The State Board of Administration, created by the Florida Constitution, is governed by the Governor as the Chair of the Board of Trustees, the Chief Financial Officer, and the Attorney General. The Board is one of several boards and commissions making up the Florida Cabinet system. The Florida Cabinet consists of the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.

⁷⁷ Section 215.68, (1), F.S.

⁷⁸ Section 215.73, F.S.

⁷⁹ Section 215.82(2), F.S.

⁸⁰ See s. 75.02, F.S.

⁸¹ Section 75.09, F.S.

⁸² See copy of email from the Florida Division of Bond Finance to House staff dated January 27, 2015 (On file with the Senate Committee on Transportation).

⁸³ Emphasis added.

the first publication, which may not be less than 20 days before the date set for hearing, *in a newspaper in each of the counties where the proceeds of the bonds are to be expended, and in a newspaper published in Leon County.*⁸⁴

However, if publication pursuant to s. 215.82, F.S., would require publication in more newspapers than would publication pursuant to s. 75.06, F.S., then publication pursuant to s. 75.06, F.S., controls.⁸⁵ The currently required publication is dependent upon the geographic reach of the project(s) for which funding through bond issuance is sought.

Effect of Proposed Changes:

The bill leaves validation of turnpike bonds to the discretion of the DBF and limits provisions relating to publication of the required notice.

Section 9 creates subsection (5) of s. 338.227, F.S., to:

- Provide turnpike bonds issued pursuant to that section are not required to be validated pursuant to chapter 75, F.S., notwithstanding s. 215.82, F.S.;
- Provide for validation at the option of the DBF; and
- Require the notice under s. 75.06, F.S., to be published only in Leon County.

Section 15 amends s. 215.82(2), F.S., to strike the reference to s. 338.227, F.S., and add a reference to the language in newly created s. 338.227(5), F.S.

Emergency Work Program Amendments (Section 10)

Present Situation:

The FDOT's Work Program

The FDOT is responsible for developing a five-year plan of transportation projects in partnership with other entities such as communities, metropolitan planning organizations, local governments, other state and federal agencies, modal partners, and regional entities. Each of the FDOT's districts develops a "district work program," which is a five-year listing of transportation projects planned for each fiscal year and submitted to the FDOT's central office for review. The central office then develops a "tentative work program" (TWP) based on the district work programs. The TWP is a future five-year listing of all projects planned for each fiscal year, setting forth all projects by phase to be undertaken during the ensuing fiscal year and planned for the successive four fiscal years. On July 1 of each year, the FDOT adopts the "adopted work program," (AWP) which is the five-year listing of all projects planned for each fiscal year, including the current fiscal year.⁸⁶

The TWPs and AWP's must set out the proposed commitments and planned expenditures for the projects listed and be based on a complete, balanced financial plan.⁸⁷ Commitments⁸⁸ generally

⁸⁴ Emphasis added.

⁸⁵ See s. 215.82(2), F.S.

⁸⁶ See s. 339.135, F.S.

⁸⁷ Section 339.135(3)(a), F.S.

⁸⁸ The FDOT operates on a cash flow-commitment basis. Multi-year transportation projects begin before the total amount of cash is available to fund the entire project. Future revenues are used to pay for a project as actual expenditures occur. The

must be planned so as to deplete the estimated resources for the fiscal year.⁸⁹ Budgeting in excess of revenues received from various sources is prohibited.⁹⁰ The FDOT may include in each new TWP proposed changes to the projects contained in the previous AWP but is required to minimize changes to the four common fiscal years contained in the previous AWP and the new TWP.⁹¹

Amending the Adopted Work Program

The AWP may be amended, subject to certain procedures. The FDOT may amend the AWP to transfer fixed capital outlay appropriations for projects within the same appropriations category or between appropriations categories, including the following:

- To delete any project or project phase estimated to cost over \$150,000;
- To add a project estimated to cost over \$500,000;
- To advance or defer to another fiscal year a right-of-way phase, a construction phase, or a public transportation project phase estimated to cost over \$1.5 million, with certain exceptions; or
- To advance or defer to another fiscal year any preliminary engineering phase or design phase estimated to cost over \$500,000, with certain exceptions.^{92, 93}

If the FDOT proposes any amendment to the AWP described above the FDOT must submit the proposed amendment to the Governor for approval.⁹⁴ The FDOT must notify:

- The chairs of the appropriations and transportation committees;
- Each member of the Legislature representing a district affected by the proposed amendment; and
- Each affected metropolitan planning organization (MPO) and unit of local government, if not notified in connection with the 14-day comment period.⁹⁵

Current law prohibits the Governor from approving a proposed amendment until 14 days following the notification to the committee chairs, Legislative members, MPOs, and local governments.⁹⁶ If either of the appropriations committee chairs, the Senate President, or the House Speaker objects in writing to a proposed amendment within 14 days following the notification and specifies the reason for the objection, the Governor must disapprove the proposed amendment.⁹⁷

FDOT measures and evaluates anticipated future revenues against total and planned project commitments. See the FDOT's *Work Program 101* computer based training available at: <http://wbt.dot.state.fl.us/ois/WorkProgram101CBT/index.shtm>. (Last visited December 2, 2016.)

⁸⁹ Section 339.135(3)(b), F.S.

⁹⁰ Section 339.315(3)(c), F.S.

⁹¹ Section 339.315(4)(b)3., F.S.

⁹² Section 339.135(7)(c), F.S.

⁹³ FDOT Districts may loan funds between districts, under specified conditions. Such loans constitute an amendment to the AWP per s. 339.135(7)(b), F.S., and are subject to the same budget amendment threshold amounts contained in s. 339.135(7)(c), F.S. The FDOT is required to index the thresholds to the Consumer Price Index or similar inflation indicators no more frequently than once a year, subject to specified notice and review procedures

⁹⁴ If the amendment deletes or defers a capacity project construction phase, affected counties and cities must be given a 14-day comment period prior to the amendment being submitted to the Governor. Section 339.135(7)(d)1., F.S.

⁹⁵ Section 339.135(7)(d)2., F.S.

⁹⁶ Section 339.135(7)(d)3., F.S.

⁹⁷ Section 339.135(7)(d)4., F.S.

Any work program amendment that also requires the transfer of fixed capital outlay⁹⁸ appropriations between categories within the FDOT, or the increase of an appropriation category, is subject to the approval of the Legislative Budget Commission (LBC), if not subject to legislation enacted in 2016.⁹⁹ The 2016 legislation required LBC approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP.¹⁰⁰

Emergency Work Program Amendments

Recognizing that circumstances can arise that would make the above-described processes unworkable, existing law makes provision for emergencies. Notwithstanding the notification and approval requirements described above and the requirement for LBC review of amendments transferring fixed capital outlay appropriations between categories,¹⁰¹ current law authorizes the FDOT secretary to request AWP amendments when an emergency¹⁰² exists and the emergency relates to the repair or rehabilitation of any state transportation facility. The Governor may grant approval and amend the FDOT's approved budget if a delay due to the notification requirements described above would be detrimental to the interests of the state. The FDOT must immediately notify the committee chairs and the affected Legislative members, MPOs, and local governments, and provide written justification for the emergency action within seven days after approval.¹⁰³

The FDOT notes that this exemption ensures that emergency repairs proceed quickly, protecting the safety and convenience of the traveling public.¹⁰⁴ However, when the 2016 legislation was enacted to require LBC approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP, no exception from the notification, approval, and LBC-review requirements was granted for emergencies. The FDOT seeks to clarify that emergency work program amendments are also exempt from the LBC approval requirement of the 2016 legislation. In Fiscal Year 2016-2017 so far, the FDOT advises only one work program amendment was submitted for LBC review that, under the proposed revision, would not have been submitted.¹⁰⁵

⁹⁸ Defined in s. 216.011(1)(p), F.S., to mean the appropriation category used to fund real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.), including additions, replacements, major repairs, and renovations to real property which materially extend its useful life or materially improve or change its functional use and including furniture and equipment necessary to furnish and operate a new or improved facility, when appropriated by the Legislature in the fixed capital outlay appropriation category.

⁹⁹ Section 339.135(7)(g), F.S.

¹⁰⁰ Section 339.135(7)(h), F.S.

¹⁰¹ Section 339.135(7)(e), F.S., also expressly notwithstanding the provisions of s. 216.772(2), F.S., relating to certain other notice, review, and objection procedures with respect to appropriations, and s. 216.351, F.S., providing that subsequent inconsistent laws supersede that chapter only by express reference to that section.

¹⁰² Defined by s. 252.34(4), F.S., to mean any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

¹⁰³ Current law prohibits amending the AWP for emergency purposes unless the FDOT's comptroller certifies the availability of sufficient funds. Section 339.135(7)(e), F.S.

¹⁰⁴ See the FDOT's 2017 Legislative Proposal, *Work Program Amendments-LBC/Emergency Projects*. (On file in the Senate Transportation Committee.)

¹⁰⁵ See the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

Effect of Proposed Changes:

Section 10 amends s. 339.135(7)(e), F.S., relating to emergency amendment of the FDOT's work program, to insert a cross-reference to subsection (h), relating to the 2016 requirement for LBC review and approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP. This revision results in an exception to LBC review and approval of such amendments in the case of emergencies, under the conditions specified in current law.

Florida Highway Beautification Council Repeal/FDOT Grant Program (Section 11)***Present Situation:***The Council's Role

Section 339.2405, F.S., established the Florida Highway Beautification Council (Council) within the FDOT in 1987. The Council consists of seven members appointed by and serving at the pleasure of the Governor, with each chair selected by the Council members and serving a two-year term. Currently, all appointed members must be residents of this state. Of the seven members, two must be private citizens and one each must be:

- A licensed landscape architect;
- A representative of the Florida Federation of Garden Clubs, Inc.;
- A representative of the Florida Nurserymen and Grower Association;
- An FDOT representative designated by the FDOT secretary; and
- A representative of the Department of Agriculture and Consumer Services.

The Council is required to meet at least semiannually and may prescribe, amend, and repeal bylaws. The Council's duties are to:

- Provide information to local governments and local highway beautification councils about the state highway beautification grants program;
- Accept and review grant requests from local governments;
- Establish rules for evaluating and prioritizing the grant requests;
- Maintain a prioritized list of approved grant requests;
- Assess the feasibility of planting and maintain indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways;
- At the request of the FDOT secretary, review and make recommendations on any other highway beautification matters; and
- Annually submit to the FDOT secretary a proposal recommending the level of grant funding.

Local councils may be created by local governmental entities or by the Legislature. The local government or governments of the area in which the project is located must approve a grant request before its submission to the Council. After receiving recommendations from the Council, the FDOT secretary must award grants to local governmental entities in the order they appear on the Council's prioritized list and in accordance with available funding.¹⁰⁶

¹⁰⁶ Section 334.044(26), F.S., requires the FDOT to allocate no less than 1.5 percent of the amount contracted for roadway and bridge construction projects for the purchase of plant materials. The FDOT advises that highway beautification grant funds are included in its calculation of the 1.5 percent requirement. See the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

Beautification grants may be requested only for projects to beautify through landscaping roads on the State Highway System. A grant request must identify all costs associated with the project, including sprinkler systems, plant materials, equipment, and labor. Grant funds must provide for the costs of purchase and installation of a sprinkler system and the cost of plant materials and fertilizer. Grant funds may provide for the costs for labor associated with the installation of plantings.

Each local government that receives a grant is responsible for paying any costs for water, sprinkler system maintenance, and landscaped area maintenance in accordance with a maintenance agreement with the FDOT. Except as provided in the grant, each local government is also responsible for paying any costs for labor associated with plant installation. The FDOT is authorized to provide by contract services to maintain such landscaping at a level not to exceed the cost of routine maintenance of an equivalent un-landscaped area.

The FDOT's Role

The FDOT reports that each FDOT District appoints a District Highway Beautification Council Grant Manager (District Manager). The District Manager works with the District Landscape Architect and the State Transportation Landscape Architect (STLA), promoting the grant program and assisting applicants through the grant process. Each District Manager compiles and submits to the STLA a district-wide list of all applications received, and the STLA then compiles a statewide list. After the Council ranks each project, the STLA produces a Ranked Listing of the projects. Grants are awarded in the ranked order until the remaining budget is insufficient to fund the next ranked project.¹⁰⁷

Recent Grant Funding and Council Expenses

The line items for highway beautification included in the FDOT's budget for the most recent five Fiscal Years is as follows:

<u>Fiscal Year</u>	<u>Line-Item</u>
2012-2013	\$1,000,000
2013-2014	\$1,000,000
2014-2015	\$1,800,000
2015-2016	\$1,817,000
2016-2017	\$1,800,000 ¹⁰⁸

The FDOT is required to provide staff support services to the Council. For Fiscal Years 2012-13 through 2016-17, the FDOT advises it expended \$167,500 for administrative costs and travel to support the Council.¹⁰⁹

¹⁰⁷ See the FDOT's 2017 Legislative Proposal, *Repeal of the Florida Highway Beautification Council*. (On file in the Senate Transportation Committee.)

¹⁰⁸ *Id.*

¹⁰⁹ See the FDOT's *Estimated Admin and Travel Expense to Administer the Grants*. (On file in the Senate Transportation Committee.)

Effect of Proposed Changes

The bill repeals the Florida Highway Beautification Council and creates the Florida Highway Beautification Grant Program within the FDOT, with the FDOT secretary awarding grants to local governmental entities for beautification of roads on the State Highway System based on the FDOT's prioritized list.

Section 11 amends s. 339.2405, F.S., creating the Grant Program within the FDOT and repealing all of the provisions relating to the Council, its membership, chair selection, meeting frequency, quorum requirements, compensation, and bylaws, etc.

The current Council duties are transferred to the FDOT, with the exception of assessing the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, using data from other states. The bill removes the required assessment, as it has been accomplished. The FDOT continues its efforts to improve aesthetics and driver safety while lowering maintenance costs through its Wildflower and Natural Areas Program.¹¹⁰

Also removed to conform to the repeal of the Council is its authorization to make recommendations on other highway beautification matters and direction to the FDOT secretary to provide staff support services to the Council. Authorization to create local councils remains in place. The FDOT would rank the requests, rather than the Council, and the FDOT secretary would award grants based on the FDOT's prioritized list of approved grant requests, until the remaining budget is insufficient to fund the next ranked project.

South Florida Regional Transportation Authority (SFRTA) Funding and Contracting (Sections 712-14 and 16)***Present Situation:*****The SFRTA and Funding**

The SFRTA, created in 2003, is an agency of the state established in part II of ch. 343, F.S. The governing body of ten voting members includes:

- One county commissioner each, elected by the county commission from Broward, Miami-Dade, and Palm Beach Counties;
- One citizen who is not a commission member, appointed by each county commission;
- An FDOT district secretary or his designee appointed by the FDOT secretary; and
- Three citizens appointed by the Governor.

Members serve four-year terms, except that the terms of the Governor's appointees must be concurrent.

The SFRTA is authorized to coordinate, develop, and operate a regional transportation system in the tri-county area of Broward, Miami-Dade, and Palm Beach Counties. The SFRTA provides commuter rail service (Tri-Rail) for residents and visitors in the area served. Statutory provisions

¹¹⁰ See the FDOT website for further information on the current program, including links to the referenced report, a history of the program, the FDOT's current wildflower procedure, and other related details available at: <http://www.fdot.gov/designsupport/wildflowers/default.shtm>. (Last visited March 2, 2017.)

require each of the three counties served to provide no less than \$2.67 million annually, dedicated by each governing body by October 1 of each year, which funds may be used for capital, operations, and maintenance.¹¹¹ Additionally, current law requires each county to annually fund SFRTA operations in an amount no less than \$1.565 million.¹¹²

Further, if the SFRTA, by December 31, 2015, had not received federal matching funds based on the dedicated \$2.67 million in tri-county funding, current law provides that funding is repealed. The SFRTA's 2016 Comprehensive Annual Financial Report reflects that the three counties contributed approximately \$1.6 million each towards the SFRTA's operating budget in Fiscal Years 2015 and 2016.¹¹³ Thus, it appears the SFRTA received no federal matching funds, and the counties are no longer required to provide the annual \$2.67 million to the SFRTA.

The SFRTA is currently responsible for dispatching, maintenance, and inspection of the South Florida Rail Corridor.¹¹⁴ Having assumed such responsibility, the FDOT is required to annually transfer to the SFRTA a total of \$42.1 million as follows:

- \$15 million for SFRTA operations, maintenance, and dispatch; and
- \$27.1 million for operating assistance, corridor track maintenance, and contract maintenance for the SFRTA.¹¹⁵

According to a Florida Transportation Commission report, the FDOT has agreed to cover 100 percent of annual maintenance costs up to \$14.4 million, with shared costs in excess of that amount, pursuant to an Operating Agreement between the FDOT and the SFRTA setting out agreed-upon percentages.¹¹⁶ The SFRTA's 2016 Comprehensive Annual Financial Report indicates that of the \$102,201,506 million in total revenue for 2016, the FDOT contributed \$55,260,036 million or 54.1 percent.¹¹⁷

The FDOT's Oversight Role

The SFRTA may not commit any funds provided by the FDOT without the FDOT's approval. The FDOT may not unreasonably withhold approval. At least 90 days before advertising any procurement or renewing any existing contract using state funds for payment, the SFRTA must notify the FDOT of the proposed procurement or renewal and the proposed terms. If the FDOT objects in writing within 60 days of receipt of the notice, the SFRTA may not proceed. Failure of the FDOT to object within 60 days is deemed consent.¹¹⁸ To enable the FDOT's evaluation of the SFRTA's proposed uses of state funds, the SFRTA must annually provide the FDOT with its proposed budget and with any additional documentation or information required by the FDOT.¹¹⁹

¹¹¹ Section 348.58(1), F.S.

¹¹² Section 348.58(3), F.S.

¹¹³ *Supra* note 89.

¹¹⁴ *Transportation Authority Monitoring and Oversight Fiscal Year 2015 Report*, pp. 197-199, available at: <http://www.ftc.state.fl.us/documents/reports/TAMO/FY2015Report.pdf>. (Last visited March 2, 2017.)

¹¹⁵ Section 348.58(4)(a)1., F.S.

¹¹⁶ *Supra* note 86, p. 197.

¹¹⁷ At p. 25, available at: http://www.sfrta.fl.gov/docs/overview/Fiscal-Year-2016_Comprehensive-Annual-Financial-Report-FINAL.pdf. (Last visited March 2, 2017.)

¹¹⁸ Section 348.58(4)(c)1., F.S.

¹¹⁹ Section 348.58(4)(c)2., F.S.

Recent Contracting

According to the SFRTA, services for the operation of Tri-Rail are currently provided through four separate contracts covering train operations, maintenance of equipment, train dispatching, and station maintenance. Those contracts expire in June of this year. The SFRTA made a decision to bundle the four contracts into one and, on September 22, 2016, issued a Request for Proposals (RFP). Eighty percent of the scoring of the proposals was to be based on technical ability to do the work; 20 percent was to be based on price. The RFP cautioned proposers not to condition their prices. Proposals were due by December 16, 2016.¹²⁰

According to the SFRTA, five of the six proposers submitted with their price proposals “extraneous” pages with labels such as “Proposal Exceptions,” “Exceptions to RFP,” and “Pricing Assumptions.”¹²¹ Other examples included pages indicating that their price did not include the cost of certain requirements in the RFP or that the price assumed facts that contradicted the RFP.¹²² The SFRTA’s procurement director determined five of the six proposers had materially and significantly conditioned their proposals — specifically, their price — and that the proposals were therefore nonresponsive and should be rejected, based on requirements in the RFP.¹²³

On January 27, 2017, the SFRTA’s governing board approved a Notice of Intent of Contract Award for Request for Proposal 16-010 “Operating Services,” reflecting a determination to enter into a contract with an initial seven-year term, plus a three-year renewal option, for a price of \$511,418,271.65.¹²⁴

A request for an injunction to block Tri-Rail from awarding the contract was rejected following issuance of a temporary injunction to enable judicial review of allegations of unfair disqualification. The judge in the case ruled that the plaintiff failed to show any entitlement to a preliminary injunction and had not established a likelihood of success on the merits of their case.”¹²⁵ Four of the five rejected bidders have timely filed a bid protest with the SFRTA, which is currently under review.¹²⁶

¹²⁰ See the SFRTA presentation to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 16, 2017, available at:

http://www.flsenate.gov/media/VideoPlayer?EventID=2443575804_2017021204. (Last visited March 2, 2017.)

¹²¹ *Id.* at (52:29).

¹²² *Id.* at (53:18).

¹²³ *Id.* at (51:15).

¹²⁴ Available at: <http://www.sfrta.fl.gov/docs/Procurement/Posting-Notice-Operating-Services.pdf>. (Last visited March 3, 2017.)

¹²⁵ See *Transdev Services, Inc., et al., v. South Florida Regional Transportation Authority*, Case No.: 17-000877 CACE(21), Broward County Circuit Court, public copy available at: <https://www.browardclerk.org/Web2/WebForms/Document.aspx?CaseID=ODc4NTc2MA%3d%3d-%2fxl4ct%2bcVyo%3d&CaseNumber=CACE17000877&FragmentID=MjM3NTk1MzQ%3d-tV6MANspieA%3d&DtFile=01/17/2017&DocName=Order&PgCnt=22&UserName=&UserType=Anonymous>. (Last visited March 24, 2017.)

¹²⁶ Telephone conversation with the SFRTA staff, March 24, 2017.

The Florida Single Audit Act/Agreements Funded with Federal or State Assistance

Section 215.97, F.S., creates the Florida Single Audit Act. Among its stated purposes is to establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects.

- “State financial assistance” is defined to mean state resources, not including federal financial assistance and state matching on federal programs, provided to a nonstate entity to carry out a state project, including the types of state resources stated in the rules of the Department of Financial Services established in consultation with all state awarding agencies. State financial assistance may be provided directly by state awarding agencies or indirectly by nonstate entities. The term does not include procurement contracts used to buy goods or services from vendors and contracts to operate state-owned and contractor-operated facility.
- “Nonstate entity” means a local government entity, higher education entity, nonprofit organization, or for-profit organization that receives state financial assistance.

Section 215.971, F.S., requires an agreement that provides state financial assistance to a recipient or subrecipient to include all of the following:

- A scope of work that clearly establishes the tasks to be performed;
- A division of the agreement into deliverables that must be received and accepted in writing by the agency before payment. Deliverables must be directly related to the scope of work. The agreement must specify the required minimum level of service to be performed and criteria for evaluating completion of each deliverable;
- Specification of the financial consequences for failure to perform the minimum level of service.
- Specification that a recipient may expend funds only for allowable costs, and that any balance of unobligated funds and any funds paid in excess of the amount to which the recipient is entitled must be refunded to the state agency; and
- Any additional information required by the Florida Single Audit Act.

In 2016, the FDOT’s Inspector General engaged in an effort “to determine the nature and extent of SFRTA’s expenditures and whether their financial records were in compliance with applicable laws, rules, and regulations.”¹²⁷ Based on the SFRTA’s response, the Inspector General requested a determination from the Department of Financial Services whether appropriations to the SFRTA constitute “state financial assistance.”¹²⁸ The Inspector General’s report found:

SFRTA, as determined by the Department of Financial Services (DFS), is a Special District and a nonstate entity that is a recipient of state financial

¹²⁷See *Audit Report No. 141-4002*, available at: <http://www.fdot.gov/ig/Reports/14I-4002%20Final.pdf>. (Last visited March 18, 2017.)

¹²⁸*Audit Report* at 7.

assistance.¹²⁹ We determined the Operating Agreement¹³⁰ between SFRTA and the department does not fully comply with mandatory provisions required by Section 215.971, F.S. nor does it contain the procurement provisions outlined in Chapter 287, F.S. We also determined \$153 million of state appropriations was omitted from audit coverage in accordance with the Florida Single Audit Act for fiscal years 2010/11 to 2014/15. Additionally, SFRTA did not provide a standard operating budget-to-actual expenditure report based upon the use of each grant or funding source.¹³¹

Effect of Proposed Changes:

The bill places restrictions on the SFRTA's contracting authority and use of state funds and revises the FDOT's oversight role.

Section 13 amends s. 343.54, F.S., to prohibit the SFRTA from entering into, extending, or renewing any contract or other agreement under that part without the FDOT's prior review and written approval of the SFRTA's proposed expenditures, if such contract or agreement may be funded, in whole or in part, with FDOT-provided funds. The prohibition applies notwithstanding any provision of that part, which contains the SFRTA's authorization to enter into contracts. The SFRTA must obtain the FDOT's approval, under the funding condition specified, to enter into, extend, or renew any contract or other agreement.

Section 14 amends s. 343.48(4)(c)1., F.S., to remove the current statutory language:

- Prohibiting the FDOT from unreasonably withholding its approval of the SFRTA's commitment of FDOT-provided funds;
- Requiring the SFRTA to notify the FDOT of a proposed procurement or renewal before advertising any procurement or renewing any existing contract that will rely on state funds;
- Requiring the FDOT to object in writing and, if timely, prohibiting the SFRTA from proceeding with the procurement or renewal;
- Providing that the FDOT's failure to timely object constitutes consent; and
- Providing no-impairment-of-contract language for contracts existing as of June 30, 2012.

This section replaces the notice and objection process with language deeming funds provided to the authority by the FDOT under that section to be state financial assistance provided to a

¹²⁹ The DFS determined the SFRTA had for nine years submitted financial audit reports per s. 28.39, F.S., as a special district; that a special district as defined by statute is a unit of government created for a special purpose by a special act with jurisdiction to operate within a limited geographic boundary; that the SFRTA was created by the South Florida Regional Transportation Authority Act for the special purpose of operating and managing a transit system in Broward, Miami-Dade and Palm Beach Counties; and that the law limits operations to those counties. The DFS also noted the SFRTA is a state project (a state program that provides state financial assistance to a nonstate organization) that must be assigned a Catalog of State Financial Assistance number and, finally, since state law created the SFRTA to carry out a state project, the SFRTA is a recipient of state financial assistance. *Audit Report*, Appendix J.

¹³⁰ The report notes a June 2013 operating agreement between the FDOT and the SFRTA for continuing SFRC operating rights for a 14-year period that included SFRTA's agreement to conduct all activities in accordance with applicable federal and state laws and regulations and the operating rules, policies, and procedures adopted pursuant to such laws and regulations. *Id.* at 5.

¹³¹ *Audit Report* at 1.

nonstate entity to carry out a state project subject to the provisions of ss. 215.97 and 215.971, F.S. The FDOT is directed to provide the funds in accordance with the terms of a written agreement to be entered into between the SFRTA and the FDOT. The agreement must provide for FDOT review, approval, and audit of the SFRTA's expenditure of such funds and must include such other provisions as are required by applicable law. The FDOT is expressly authorized to advance the SFRTA one-fourth of the total funding provided under that section for a state fiscal year at the beginning of each state fiscal year. Thereafter, the bill requires monthly payments over the fiscal year on a reimbursement basis as supported by invoices and such additional documentation and information as the FDOT may reasonably require, and a reconciliation of the advance against remaining invoices in the last quarter of the fiscal year.

This section of the bill also modifies the SFRTA's existing obligation to provide the FDOT with its proposed budget and any additional documentation or information required by the FDOT for its evaluation of SFRTA-proposed uses of state funds by requiring the SFRTA to *promptly* provide such documentation or information.

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Section 12 amends s. 343.52, F.S., to define "department" within Part II of ch. 343, F.S. to mean the Department of Transportation.

Section 16 of the bill amends s. 343.53, F.S., revising a cross-reference to conform to changes made in the act.

Transportation Disadvantaged Services/Transportation Network Companies (Section 17)

Present Situation:

The Legislature created the Transportation Disadvantaged (TD) Program in Part I of ch. 427, F.S., in 1979.¹³² The TD Program coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. In 1989, the Legislature created the Commission for the Transportation Disadvantaged (commission) as an independent entity within the Florida Department of Transportation.¹³³ The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged,¹³⁴ with the goal of such coordination to assure the cost-effective provision of transportation by qualified community transportation coordinators¹³⁵ or transportation operators.¹³⁶ The commission describes the program as "a shared-ride service which, depending

¹³² 79-180, L.O.F.

¹³³ 89-376, L.O.F.

¹³⁴ A "transportation disadvantaged person" is a person who because of physical or mental disability, income status, or age is unable to transport himself or herself or to purchase transportation and is, therefore, dependent on others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk as defined in s. 411.202, F.S. Section 427.011(1), F.S.

¹³⁵ Section 427.011(5), F.S.

¹³⁶ A "transportation operator" is one or more public, private for-profit, or private nonprofit entities engaged by the community transportation coordinator to provide service to transportation disadvantaged persons pursuant to a coordinated system service plan. Section 427.011(6), F.S.

on location, may be provided using the fixed route transit or paratransit (door-to-door) service.”¹³⁷

Section 427.011(9), F.S., defines “paratransit” to mean those elements of public transit that provide service between specific origins and destinations selected by the individual user with such service being provided at a time agreed upon by the user and provider of the service. That section also specifies that paratransit services are provided by taxis, limousines, “dial-a-ride,” buses, and other demand-responsive operations characterized by their nonscheduled, nonfixed route nature. Paratransit service has its own challenges, however, such as waiting long periods of time for a ride home after a doctor’s visit or problems getting to a fixed route stop.

Some communities are employing TNCs, such as Uber, Lyft, and SideCar, to improve mobility for transportation disadvantaged persons. For example, the Massachusetts Bay Transportation Authority partnered with Uber and Lyft to provide paratransit services.¹³⁸ Here in Florida, the Pinellas Suncoast Transit Authority (PSTA) recently expanded a small pilot project to the entire county. Branded as Direct Connect, the program is designed to give low-cost rides to designated bus stops using Uber, United Taxi, and Lyft.¹³⁹ However, current state law does not expressly include TNCs as a provider of transportation disadvantaged services.

Effect of Proposed Changes:

Section 17 amends s. 427.011, F.S., to re-order the definitions alphabetically, re-numbering current subsection (9) as subsection (7), and includes TNCs as a provider of paratransit service, thereby allowing TNCs to provide transportation disadvantaged services.

Federal Pilot Program Enrollment

Present Situation:

Section 334.044, F.S., sets out a number of the FDOT’s powers and duties. Among those are the FDOT’s power and duty to:

- Conduct research studies and collect data necessary for the improvement of the state transportation system;
- Conduct research and demonstration projects relative to innovative transportation technologies; and
- Identify, obtain, and administer all federal funds available to the FDOT for all transportation purposes.

Effect of Proposed Changes:

Section 18 of the bill creates an unspecified section of Florida law authorizing the Secretary of Transportation to enroll the State of Florida in any federal pilot program or project for the

¹³⁷See the Commission’s website available at: <http://www.fdot.gov/ctd/communitytransystem.htm>. (Last visited March 27, 2017.)

¹³⁸See *Uber, Lyft partner with transportation authority to offer paratransit customers service in Boston*, available at: https://www.washingtonpost.com/news/dr-gridlock/wp/2016/09/16/uber-lyft-partner-with-city-to-offer-paratransit-customers-on-demand-service-in-boston/?utm_term=.0a9f1dca38bb. (Last visited April 13, 2017.)

¹³⁹See *PSTA Expands Partnership with Uber, Lyft Across Pinellas County*, available at: <https://patch.com/florida/stpete/psta-expands-partnership-uber-lyft-across-pinellas-county>. (Last visited April 14, 2017.)

collection and study of data for the review of federal or state roadway safety, infrastructure sustainability, congestion mitigation, transportation system efficiency, autonomous vehicle technology, or capacity challenges.

While research reveals no provision of law expressly authorizing the FDOT to enroll the state in any federal pilot program or project, the FDOT's existing powers and duties appear to grant sufficient authority for the FDOT to enroll the state in a federal pilot program or project relating to the collection and study of data for review of the identified subject matters.

Section 19 provides the act take effect on July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the Florida Constitution provides that no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless: funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

Article VII, s. 18(d) of the Florida Constitution provides laws adopted to require funding of pension benefits existing on the effective date of this section, criminal laws, election laws, the general appropriations act, special appropriations acts, laws reauthorizing but not expanding then-existing statutory authority, laws having insignificant fiscal impact, and laws creating, modifying, or repealing noncriminal infractions, are exempt from the requirements of this section.

An exemption from the mandates provision may apply if the expected fiscal impact on municipalities/counties is less than \$2 million. Because the fiscal impact is anticipated to be less than \$2 million, the bill appears to be exempt from the mandate requirements.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The provisions relating to highway memorial markers and incorporation of emblems of belief may be subject to challenge under the First Amendment of the U.S.

Constitution.¹⁴⁰ If such a legal challenge is made, case law does not provide clear direction as to the legal standard to be used as different “tests” of constitutionality have been applied in establishment clause cases based on various fact patterns leading to an inconsistency in results.¹⁴¹

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

None.

B. Private Sector Impact:

Section 2: The trucking industry may realize an insignificant positive fiscal impact resulting from the additional weight allowance for natural gas vehicles due to potentially fewer overweight citations.

Section 3: Riders in autonomous vehicles used by TNCs to provide transportation may benefit from the bill’s required insurance coverage. The insurance industry may benefit from increased sales.

Section 7: Applicants requesting memorial markers incorporating emblems of belief may be required to pay the fee to be set by the FDOT to offset production costs.

Section 8: The FDOT notes an indeterminate positive fiscal impact to the extent a private sector company is awarded a fast response contract and is not required to obtain a surety bond.¹⁴²

C. Government Sector Impact:

Section 2: The FDOT may realize a loss of revenues relating to fewer overweight citations being written. This revenue loss may be offset to an extent by reduced regulatory costs. A potential withholding of federal funds is avoided.

Section 6: The FDOT will incur additional administrative expenses associated with developing the federally required bridge inspection policies and criteria, seeking FHWA approval, and revising relevant policies and procedures, which expenses are expected to be absorbed within existing resources. The FDOT expects cost savings to the extent the FHWA approves bridges for extended inspection frequencies. The FDOT estimates

¹⁴⁰ Congress shall make no law respecting an establishment of religion....” U.S. Const. amend. I.

¹⁴¹ *Utah Highway Patrol Association v. American Atheists, Inc.*, decided October 31, 2011, available at: <https://www.supremecourt.gov/opinions/11pdf/10-1276.pdf>. (Last visited April 5, 2017.)

¹⁴² See the FDOT’s 2017 Legislative Proposal, *Rapid Response Contracts – Price Cap Increase*. (On file in the Senate Transportation Committee.)

approximately \$500,000 in inspection services could be redirected to bridge repair, rehabilitation, and/or replacement.¹⁴³

Section 7: The FDOT may experience administrative expenses associated with the memorial marker program, offset by the authorized fee for markers incorporating emblems of belief, in an indeterminate amount.

Section 9: The DBF may avoid some costs if it is not required to validate turnpike revenue bonds.

Section 11: Based on costs for Fiscal Years 2012-13 through 2016-17, the FDOT is expected to realize a positive fiscal impact of approximately \$33,400 annually resulting from repeal of the Florida Highway Beautification Council, due to removal of the FDOT's duty to provide for administrative costs and travel to support the Council. The FDOT will absorb administrative expenses associated with revising Rule Chapter 14-40, F.A.C., and implementing the grant program, within existing resources.

Sections 13 and 14: The FDOT and the SFRTA may incur additional administrative expenses associated with the FDOT's review, written approval, and audit of the SFRTA's proposed expenditures using any funding provided to the SFRTA under s. 343.58(4), F.S., as well as administrative expenses associated with the requires reimbursement and reconciliation process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 316.545, 335.074, 337.11, 338.227, 339.135, 339.2405, 343.52, 343.54, 343.58, 215.82, and 343.53.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 13, 2017:

The committee substitute:

- Directs the FDOT, in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), to develop a Florida Smart City Challenge grant program;

¹⁴³ See the FDOT's 2017 Legislative Proposal, *Bridge Inspection Frequency*. (On file in the Senate Transportation Committee.)

- Revises autonomous vehicle alert system requirements, consistent with current law, to clarify that an autonomous vehicle may operate in autonomous mode without a person physically present in the vehicle;
- Directs the FDOT to establish a process for applications for placement of roadside memorial markers at or near the location of traffic-related fatalities on the State Highway System to raise public awareness and remind motorists to drive safely.
- Applies certain insurance coverage requirements, should legislation addressing insurance for transportation network companies (TNCs) become law, to autonomous vehicles used by TNCs to provide transportation, regardless of whether a human operator is physically present in the vehicle when the ride occurs;
- Removes the provisions requiring the SFRTA to terminate the Operating Services contract and:
 - Deems funds provided by the FDOT to the SFRTA to be state financial assistance subject to specified accountability requirements;
 - Requires the FDOT to provide funds to the SFRTA in accordance with a written agreement containing certain provisions;
 - Authorizes the FDOT to advance funds to the SFRTA at the start of each fiscal year, with monthly payments for maintenance and dispatch on the South Florida Rail Corridor over the fiscal year on a reimbursement basis;
- Expressly includes transportation network companies (TNCs) in the list of providers of services for the transportation disadvantaged; and
- Authorizes the FDOT Secretary to enroll the state in any federal pilot program or project for the collection and study of specified types of transportation-related data.

CS by Transportation March 28, 2017:

A technical amendment to the original bill was adopted to clarify that the 2,000-pound weight allowance for natural gas-powered trucks is in addition to the 500-pound weight allowance for idle reduction technology.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 134 and 135
insert:

Section 1. Subsection (1) and paragraph (a) of subsection (4) of section 20.23, Florida Statutes, are amended to read:
20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(1) (a) The Department of Transportation shall consist of:



890844

11 1. A central office that establishes policies and
12 procedures; and

13 2. Districts that carry out projects as authorized or
14 required under the policies and procedures implemented by the
15 central office pursuant to paragraph (3) (a).

16 (b)~~(a)~~ The head of the Department of Transportation is the
17 Secretary of Transportation. The secretary shall be appointed by
18 the Governor from among three persons nominated by the Florida
19 Transportation Commission and shall be subject to confirmation
20 by the Senate. The secretary shall serve at the pleasure of the
21 Governor.

22 (c)~~(b)~~ The secretary shall be a proven, effective
23 administrator who by a combination of education and experience
24 shall clearly possess a broad knowledge of the administrative,
25 financial, and technical aspects of the development, operation,
26 and regulation of transportation systems and facilities or
27 comparable systems and facilities.

28 (d)~~(c)~~ The secretary shall provide to the Florida
29 Transportation Commission or its staff, such assistance,
30 information, and documents as are requested by the commission or
31 its staff to enable the commission to fulfill its duties and
32 responsibilities.

33 (e)~~(d)~~ The secretary may appoint up to three assistant
34 secretaries who shall be directly responsible to the secretary
35 and who shall perform such duties as are assigned by the
36 secretary. The secretary shall designate to an assistant
37 secretary the duties related to enhancing economic prosperity,
38 including, but not limited to, the responsibility of liaison
39 with the head of economic development in the Executive Office of



890844

the Governor. Such assistant secretary shall be directly responsible for providing the Executive Office of the Governor with investment opportunities and transportation projects that expand the state's role as a global hub for trade and investment and enhance the supply chain system in the state to process, assemble, and ship goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America. The secretary may delegate to any assistant secretary the authority to act in the absence of the secretary.

(f)1.(e) Any secretary appointed after July 1, 2019 ~~5~~
~~1989~~, and the assistant secretaries are ~~shall be~~ exempt from the ~~provisions of~~ part III of chapter 110 and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in other public sector organizations and in the private sector.

2. The salaries of the secretary and the assistant secretaries shall be established by the Florida Transportation Commission and determined by a market analysis focused on comparably skilled individuals in other public sector organizations, including, but not limited to, expressway authorities, aviation authorities, and port authorities, and on comparably skilled individuals in the private sector. The market analysis must serve as a basis for ascertaining compensation levels required to retain the secretary and assistant secretaries in their positions within the department and to attract external talent that can fulfill the department's mission and effect change. The salary of the secretary must be at least \$180,000. The salary of an assistant secretary must be 10 percent below that of the secretary who appoints him or her.



890844

(4) (a) 1. The operations of the department shall be organized into seven districts, each headed by a district secretary, and a turnpike enterprise and a rail enterprise, each enterprise headed by an executive director. The district secretaries and the executive directors shall be registered professional engineers in accordance with ~~the provisions of~~ chapter 471 or the laws of another state, or, in lieu of professional engineer registration, a district secretary or executive director may hold an advanced degree in an appropriate related discipline, such as a Master of Business Administration.

2. The district secretaries and the executive director of the turnpike enterprise are exempt from part III of chapter 110 and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in other public sector organizations and in the private sector. The salaries of the district secretaries and the executive director of the turnpike enterprise must be 15 percent below that of the secretary, as determined under subparagraph (1) (f) 2., who is head of the department at the time the district secretaries and the executive director of the turnpike enterprise take their positions.

3. The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Miami-Dade, and Hillsborough Counties. The headquarters of the turnpike enterprise shall be located in Orange County. The headquarters of the rail enterprise shall be located in Leon County. In order to provide for efficient operations and to expedite the decisionmaking process, the department shall provide for maximum decentralization to the districts.



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

And the title is amended as follows:

Delete line 2

and insert:

An act relating to transportation; amending s. 20.23, F.S.; requiring the Department of Transportation to consist of a central office and districts, subject to certain requirements; providing that any secretary appointed after a specified date and the assistant secretaries are exempt from membership in the Senior Management Service System Class; requiring the secretary and assistant secretaries to receive compensation competitive with compensation for comparable responsibility in other public sector organizations; requiring that the salaries of the secretary and the assistant secretaries be established by the Florida Transportation Commission and determined by a certain market analysis, subject to certain requirements; providing minimum specified salaries for the secretary and assistant secretaries; providing that the district secretaries and the executive director of the turnpike enterprise are exempt from membership in the Senior Management Service System Class; requiring that the district secretaries receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in other public sector organizations and in the private sector; providing



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127 salary requirements for the district secretaries;
128 creating s.



408222

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Between lines 134 and 135
insert:

Section 1. Subsection (1) of section 212.055, Florida
Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent;
authorization and use of proceeds.—It is the legislative intent
that any authorization for imposition of a discretionary sales
surtax shall be published in the Florida Statutes as a



408222

subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties or municipalities authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY, MUNICIPALITY, AND REGIONAL
TRANSPORTATION SYSTEM SURTAX.—

(a) Each charter county that has adopted a charter, each county the government of which is consolidated with that of one or more municipalities, ~~and~~ each county that is within or under an interlocal agreement with a regional transportation or transit authority created under chapter 343 or chapter 349, and each municipality and county under paragraph (b) may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county or municipality or by a charter amendment approved by a majority vote of the electorate of the county.

(b)1. A municipality with a population greater than 270,000 located in a county with a population greater than 1.28 million but less than 1.5 million may levy a discretionary sales surtax as provided in this subsection. The discretionary sales surtax may only be levied within the limits of the municipality.

2. The levy of a discretionary sales surtax pursuant to this paragraph does not prohibit the county in which the municipality is located from levying a discretionary sales



408222

surtax as otherwise provided in this section. If a municipality has levied a discretionary sales surtax as described in this paragraph, the county within which the municipality is located may also levy a discretionary sales surtax, at the same level as the municipality, pursuant to referendum of the voters of the county who reside outside the municipality. The proceeds from such a discretionary sales surtax may only be collected outside the municipality limits. Alternatively, the municipality and county, by interlocal agreement, may levy such a discretionary sales surtax by referendum of all the voters of the county.

(c)~~(b)~~ The rate of the discretionary sales surtax shall be up to 1 percent.

(d)~~(e)~~ The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county or municipality accounts shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body.

(e)~~(d)~~ Proceeds from the surtax shall be applied to as many or as few of the uses enumerated below in whatever combination the county commission or municipal governing body deems appropriate:

1. Deposited by the county or municipality in the trust fund and shall be used for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide or municipality-wide bus system, on-demand transportation services, and related costs of a fixed guideway rapid transit system;

2. Remitted by the governing body of the county or municipality to an expressway, transit, or transportation



408222

69 authority created by law to be used, at the discretion of such
70 authority, for the development, construction, operation, or
71 maintenance of roads or bridges in the county or municipality,
72 for the operation and maintenance of a bus system, for the
73 operation and maintenance of on-demand transportation services,
74 for the payment of principal and interest on existing bonds
75 issued for the construction of such roads or bridges, and, upon
76 approval by the county commission or municipal governing body,
77 such proceeds may be pledged for bonds issued to refinance
78 existing bonds or new bonds issued for the construction of such
79 roads or bridges;

80 3. Used by the county or municipality for the development,
81 construction, operation, and maintenance of roads and bridges in
82 the county or municipality; for the expansion, operation, and
83 maintenance of bus and fixed guideway systems; for the
84 expansion, operation, and maintenance of on-demand
85 transportation services; and for the payment of principal and
86 interest on bonds issued for the construction of fixed guideway
87 rapid transit systems, bus systems, roads, or bridges; and such
88 proceeds may be pledged by the governing body of the county or
89 municipality for bonds issued to refinance existing bonds or new
90 bonds issued for the construction of such fixed guideway rapid
91 transit systems, bus systems, roads, or bridges and no more than
92 25 percent used for nontransit uses; and

93 4. Used by the county or municipality for the planning,
94 development, construction, operation, and maintenance of roads
95 and bridges in the county or municipality; for the planning,
96 development, expansion, operation, and maintenance of bus and
97 fixed guideway systems; for the planning, development,



408222

construction, operation, and maintenance of on-demand transportation services; and for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county or municipality for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges. Pursuant to an interlocal agreement entered into pursuant to chapter 163, the governing body of the county may distribute proceeds from the tax to a municipality, or an expressway or transportation authority created by law to be expended for the purpose authorized by this paragraph. Any county that has entered into interlocal agreements for distribution of proceeds to one or more municipalities in the county shall revise such interlocal agreements no less than every 5 years in order to include any municipalities that have been created since the prior interlocal agreements were executed.

(f)~~(e)~~ As used in this subsection, the term "on-demand transportation services" means transportation provided between flexible points of origin and destination selected by individual users with such service being provided at a time that is agreed upon by the user and the provider of the service and that is not fixed-schedule or fixed-route in nature.

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

And the title is amended as follows:

Delete line 2

and insert:



408222

An act relating to transportation; amending s.
212.055, F.S.; requiring certain enactments to specify
the types of municipalities authorized to levy a
discretionary sales surtax; authorizing certain
municipalities to levy a certain discretionary sales
surtax; providing requirements for the discretionary
sales surtax; providing that the levy of the
discretionary sales surtax does not prohibit the
county in which the municipality is located from
levying a certain discretionary sales surtax;
authorizing the county within which the municipality
is located to also levy a discretionary sales surtax,
at the same level as the municipality, pursuant to a
referendum of the voters of the county who reside
outside the municipality; providing that the county
discretionary sales surtax may be collected only
outside the municipality limits; authorizing,
alternatively, the municipality and county, by
interlocal agreement, to levy such a discretionary
sales surtax by referendum of all the voters of the
county; requiring the proposal to adopt a
discretionary sales surtax and to create a trust fund
within the municipality accounts to be placed on the
ballot in accordance with law at a time to be set at
the discretion of the governing body; providing that
proceeds from the surtax shall be applied to specified
uses in whatever combination the municipal governing
body deems appropriate; conforming provisions to
changes made by the act; creating s.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
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The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 135 - 734
and insert:

Section 1. Present subsections (51) through (97) of section 316.003, Florida Statutes, are renumbered as subsections (53) through (99), respectively, present subsections (40), (55), and (95) are amended, and new subsections (51) and (52) are added to that section, to read:

316.003 Definitions.—The following words and phrases, when



463056

used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(40) MOTOR VEHICLE.—Except when used in s. 316.1001, a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, personal delivery device, swamp buggy, or moped. For purposes of s. 316.1001, “motor vehicle” has the same meaning as provided in s. 320.01(1)(a).

(51) PERSONAL DELIVERY DEVICE.—An electrically powered device that:

(a) Is operated on sidewalks and crosswalks and intended primarily for transporting property;

(b) Weighs less than 80 pounds, excluding cargo;

(c) Has a maximum speed of 10 miles per hour; and

(d) Is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

A personal delivery device is not considered a vehicle unless expressly defined by law as a vehicle.

(52) PERSONAL DELIVERY DEVICE OPERATOR.—An entity or its agent that exercises direct physical control over or monitoring of the navigation system and operation of a personal delivery device. For the purposes of this subsection, the term “agent” means a person charged by the entity with the responsibility of navigating and operating the personal delivery device. The term “personal delivery device operator” does not include an entity or person who requests the services of a personal delivery



463056

device for the purpose of transporting property or an entity or person who only arranges for and dispatches the requested services of a personal delivery device.

~~(57)(55)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (79)(b) ~~(77)(b)~~, any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

~~(97)(95)~~ VEHICLE.—Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices and devices used exclusively upon stationary rails or tracks.

Section 2. Subsection (7) of section 316.008, Florida Statutes, is amended to read:

316.008 Powers of local authorities.—

(7) (a) A county or municipality may enact an ordinance to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law. The ordinance must restrict such vehicles or devices to a maximum speed of 15 miles per hour in such areas.

(b)1. Except as provided in subparagraph 2., a personal delivery device may be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law. This paragraph does not restrict a county or municipality from otherwise adopting regulations for the safe operation of personal delivery devices.

2. A personal delivery device may not be operated on the



463056

Florida Shared-Use Nonmotorized Trail Network created under s. 339.81 or components of the Florida Greenways and Trails System created under chapter 260.

Section 3. Section 316.0898, Florida Statutes, is created to read:

316.0898 Florida Smart City Challenge grant program.—

(1) The Department of Transportation, in consultation with the Department of Highway Safety and Motor Vehicles, shall develop the Florida Smart City Challenge grant program and shall establish grant award requirements for municipalities or regions for the purpose of receiving grant awards. Grant applicants must demonstrate and document the adoption of emerging technologies and their impact on the transportation system and must address at least the following focus areas:

(a) Autonomous vehicles.

(b) Connected vehicles.

(c) Sensor-based infrastructure.

(d) Collecting and using data.

(e) Electric vehicles, including charging stations.

(f) Developing strategic models and partnerships.

(2) The goals of the grant program include, but are not limited to:

(a) Identifying transportation challenges and identifying how emerging technologies can address those challenges.

(b) Determining the emerging technologies and strategies that have the potential to provide the most significant impacts.

(c) Encouraging municipalities to take significant steps to integrate emerging technologies into their day-to-day operations.



463056

(d) Identifying the barriers to implementing the grant program and communicating those barriers to the Legislature and appropriate agencies and organizations.

(e) Leveraging the initial grant to attract additional public and private investments.

(f) Increasing the state's competitiveness in the pursuit of grants from the United States Department of Transportation, the United States Department of Energy, and other federal agencies.

(g) Committing to the continued operation of programs implemented in connection with the grant.

(h) Serving as a model for municipalities nationwide.

(i) Documenting the costs and impacts of the grant program and lessons learned during implementation.

(j) Identifying solutions that will demonstrate local or regional economic impact.

(3) The Department of Transportation shall develop eligibility, application, and selection criteria for the program grants and a plan for the promotion of the grant program to municipalities or regions of this state as an opportunity to compete for grant funding, including the award of grants to a single recipient and secondary grants to specific projects of merit within other applications. The Department of Transportation may contract with a third party that demonstrates knowledge and expertise in the focuses and goals of this section to provide guidance in the development of the requirements of this section.

(4) On or before January 1, 2018, the Department of Transportation shall submit the grant program guidelines and



463056

plans for promotion of the grant program to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) This section expires July 1, 2018.

Section 4. Section 316.2071, Florida Statutes, is created to read:

316.2071 Personal delivery devices.—

(1) Notwithstanding any provision of law to the contrary, a personal delivery device may operate on sidewalks and crosswalks, subject to s. 316.008(7)(b). A personal delivery device operating on a sidewalk or crosswalk has all the rights and duties applicable to a pedestrian under the same circumstances, except that the personal delivery device must not unreasonably interfere with pedestrians or traffic and must yield the right-of-way to pedestrians on the sidewalk or crosswalk.

(2) A personal delivery device must:

(a) Obey all official traffic and pedestrian control signals and devices.

(b) Include a plate or marker that has a unique identifying device number and identifies the name and contact information of the personal delivery device operator.

(c) Be equipped with a braking system that, when active or engaged, enables the personal delivery device to come to a controlled stop.

(3) A personal delivery device may not:

(a) Operate on a public highway except to the extent necessary to cross a crosswalk.

(b) Operate on a sidewalk or crosswalk unless the personal



463056

delivery device operator is actively controlling or monitoring
the navigation and operation of the personal delivery device.

(c) Transport hazardous materials as defined in s. 316.003.

(4) A personal delivery device operator must maintain an
insurance policy, on behalf of itself and its agents, that
provides general liability coverage of at least \$100,000 for
damages arising from the combined operations of personal
delivery devices under the entity's or agent's control.

Section 5. Paragraph (b) of subsection (2) of section
316.545, Florida Statutes, is amended, and present paragraphs
(c) and (d) of subsection (3) of that section are redesignated
as paragraphs (d) and (e), respectively, and a new paragraph (c)
is added to that subsection, to read:

316.545 Weight and load unlawful; special fuel and motor
fuel tax enforcement; inspection; penalty; review.—

(2)

(b) The officer or inspector shall inspect the license
plate or registration certificate of the commercial vehicle to
determine whether its gross weight is in compliance with the
declared gross vehicle weight. If its gross weight exceeds the
declared weight, the penalty shall be 5 cents per pound on the
difference between such weights. In those cases when the
commercial vehicle is being operated over the highways of the
state with an expired registration or with no registration from
this or any other jurisdiction or is not registered under the
applicable provisions of chapter 320, the penalty herein shall
apply on the basis of 5 cents per pound on that scaled weight
which exceeds 35,000 pounds on laden truck tractor-semitrailer
combinations or tandem trailer truck combinations, 10,000 pounds



463056

on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen commercial motor vehicle. A driver of a commercial motor vehicle entering the state at a designated port-of-entry location, as defined in s. 316.003 ~~316.003(54)~~, or operating on designated routes to a port-of-entry location, who obtains a temporary registration permit shall be assessed a penalty limited to the difference between its gross weight and the declared gross vehicle weight at 5 cents per pound. If the license plate or registration has not been expired for more than 90 days, the penalty imposed under this paragraph may not exceed \$1,000. In the case of special mobile equipment, which qualifies for the license tax provided for in s. 320.08(5)(b), being operated on the highways of the state with an expired registration or otherwise not properly registered under the applicable provisions of chapter 320, a penalty of \$75 shall apply in addition to any other penalty which may apply in accordance with this chapter. A vehicle found in violation of this section may be detained until the owner or operator produces evidence that the vehicle has been properly registered. Any costs incurred by the retention of the vehicle shall be the sole responsibility of the owner. A person who has been assessed a penalty pursuant to this paragraph for failure to have a valid vehicle registration certificate pursuant to the provisions of chapter 320 is not subject to the delinquent fee authorized in s. 320.07 if such person obtains a valid registration certificate within 10 working days after such penalty was assessed.

(3)

(c)1. For a vehicle fueled by natural gas, the fine is



463056

214 calculated by reducing the actual gross vehicle weight by the
215 certified weight difference between the natural gas tank and
216 fueling system and a comparable diesel tank and fueling system.
217 Upon the request of a weight inspector or a law enforcement
218 officer, the vehicle operator shall present a written
219 certification that identifies the weight of the natural gas tank
220 and fueling system and the difference in weight of a comparable
221 diesel tank and fueling system. The written certification must
222 originate from the vehicle manufacturer or the installer of the
223 natural gas tank and fueling system.

224 2. The actual gross vehicle weight for vehicles fueled by
225 natural gas may not exceed 82,000 pounds, excluding the weight
226 allowed for idle-reduction technology under paragraph (b).

227 3. This paragraph does not apply to vehicles described in
228 s. 316.535(6).

229 Section 6. Effective upon the same date that SB 340 or
230 similar legislation takes effect, if such legislation is adopted
231 in the 2017 Regular Session or any extension thereof and becomes
232 a law, section 316.851, Florida Statutes, is created to read:

233 316.851 Autonomous vehicles; providing prearranged rides.—

234 (1) An autonomous vehicle used by a transportation network
235 company to provide a prearranged ride must be covered by
236 automobile insurance as required by s. 627.748, regardless of
237 whether a human operator is physically present within the
238 vehicle when the ride occurs. When an autonomous vehicle is
239 logged on to a digital network but is not engaged in a
240 prearranged ride, the autonomous vehicle must maintain insurance
241 coverage as defined in s. 627.748(7)(b).

242 (2) An autonomous vehicle used to provide a transportation



463056

service shall carry in the vehicle proof of coverage satisfying the requirements of this section at all times while operating in autonomous mode.

Section 7. Section 316.853, Florida Statutes, is created to read:

316.853 Automated mobility districts.—

(1) For the purpose of this section, an "automated mobility district" means a master planned development or combination of contiguous developments in which the deployment of autonomous vehicles as defined in s. 316.003 as the basis for a shared mobility system is a stated goal or objective of the development or developments.

(2) The Department of Transportation shall designate automated mobility districts.

(3) In determining the eligibility of a community for designation as an automated mobility district, the Department of Transportation shall consider applicable criteria from federal agencies for automated mobility districts and apply those criteria to eligible developments in this state.

Section 8. Paragraph (a) of subsection (1) of section 319.145, Florida Statutes, is amended to read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must continue to meet applicable federal standards and regulations for such motor vehicle. The vehicle must:

(a) Have a system to safely alert the operator if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

1. Require the operator to take control of the autonomous



463056

vehicle; or

2. If the human operator does not, or is not able to, take control of the autonomous vehicle, or if a human operator is not physically present in the vehicle, be capable of bringing the vehicle to a complete stop.

Section 9. Paragraph (a) of subsection (1) of section 320.01, Florida Statutes, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(1) "Motor vehicle" means:

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

Section 10. Subsection (19) is added to section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(19) A personal delivery device as defined in s. 316.003 is not required to satisfy the registration and insurance requirements of this section.

Section 11. Subsection (1) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for



463056

the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle that ~~which~~ is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle that ~~which~~ is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any personal delivery device as defined in s. 316.003, bicycle, or moped. However, the term “motor vehicle” does ~~shall~~ not include a any motor vehicle as defined in s. 627.732(3) when the owner of such vehicle has complied with the requirements of ss. 627.730-627.7405, inclusive, unless the provisions of s. 324.051 apply; and, in such case, the applicable proof of insurance provisions of s. 320.02 apply.

Section 12. Paragraph (a) of subsection (2) of section 324.022, Florida Statutes, is amended to read:

324.022 Financial responsibility for property damage.—

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

(a) “Motor vehicle” means any self-propelled vehicle that has four or more wheels and that is of a type designed and required to be licensed for use on the highways of this state, and any trailer or semitrailer designed for use with such vehicle. The term does not include:

1. A mobile home.

2. A motor vehicle that is used in mass transit and designed to transport more than five passengers, exclusive of



463056

the operator of the motor vehicle, and that is owned by a municipality, transit authority, or political subdivision of the state.

3. A school bus as defined in s. 1006.25.

4. A vehicle providing for-hire transportation that is subject to the provisions of s. 324.031. A taxicab shall maintain security as required under s. 324.032(1).

5. A personal delivery device as defined in s. 316.003.

Section 13. Subsection (2) of section 335.074, Florida Statutes, is amended to read:

335.074 Safety inspection of bridges.—

(2) At regular intervals as required by the Federal Highway Administration ~~not to exceed 2 years~~, each bridge on a public transportation facility shall be inspected for structural soundness and safety for the passage of traffic on such bridge. The thoroughness with which bridges are to be inspected shall depend on such factors as age, traffic characteristics, state of maintenance, and known deficiencies. The governmental entity having maintenance responsibility for any such bridge shall be responsible for having inspections performed and reports prepared in accordance with the provisions contained herein.

Section 14. Effective October 1, 2017, section 335.094, Florida Statutes, is created to read:

335.094 Highway memorial markers; public safety awareness.—

(1) In recognition of the department's mission to provide a safe transportation system, the Legislature intends that the department allow the use of highway memorial markers at or near the location of traffic-related fatalities on the State Highway System to raise public awareness and remind motorists to drive



463056

safely by memorializing people who have died as a result of a traffic-related crash.

(2) The department shall establish a process, including any forms deemed necessary by the department, for submitting applications for installation of a memorial marker as authorized in this section. Applications may be submitted to the department by:

(a) A member of the decedent's family, which includes the decedent's spouse; a child, parent, or sibling of the decedent, whether biological, adopted, or step relation; and any lineal or collateral descendant of the decedent; or

(b) Any individual who is responsible under the laws of this state for the disposition of the unclaimed remains of the decedent or for other matters relating to the interment or memorialization of the decedent.

(3) The department shall establish criteria for the design and fabrication of memorial markers, including, but not limited to, marker components, fabrication material, and size.

(4) (a) The department may install a round aluminum sign panel with white background and black letters uniformly inscribed "Drive Safely, In Memory Of" followed by the decedent's name at no charge to the applicant.

(b) Upon the request of the applicant and payment of a reasonable fee set by the department to offset production costs, memorial markers may incorporate the available emblems of belief approved by the United States Department of Veterans Affairs National Cemetery Administration. For purposes of this section, an "emblem of belief" means an emblem that represents the decedent's religious affiliation or sincerely held religious



463056

belief system, or a sincerely held belief system that was
functionally equivalent to a religious belief system in the life
of the decedent. The religion or belief system represented by an
emblem need not be associated with or endorsed by a church,
group, or organized denomination. The term does not include
emblems, graphics, logos, or symbols that relate to social,
cultural, ethnic, civic, fraternal, trade, commercial,
political, professional, or military status.

(c) An applicant may request a new emblem of belief not
specifically approved by the United States Department of
Veterans Affairs National Cemetery Administration for
inscription on a memorial marker as follows:

1. The applicant must certify that the proposed new emblem
of belief represents the decedent's religious affiliation or
sincerely held religious belief system, or a sincerely held
belief system that was functionally equivalent to a religious
belief system in the life of the decedent.

2. In the absence of evidence to the contrary, the
department shall accept as genuine an applicant's statement of
the religious or functionally equivalent belief system of a
decedent.

(d) If the department determines that any application under
this section is incomplete, the department must notify the
applicant in writing of any missing information and must notify
the applicant in writing that no further action on the
application will be taken until the missing information is
provided.

(5) The department shall place a memorial marker for any
approved application at or near the location of the fatality in



463056

a fashion that reduces driver distraction and positions the marker as near the right-of-way line as possible.

(6) Memorial markers are intended to remind passing motorists of the dangers of unsafe driving and are not intended for visitation. The department shall remove a memorial marker if the department determines the presence of the marker creates a safety hazard. In such cases, the department shall post a notice near where the marker was located indicating that the marker has been removed and provide contact information for pickup of the marker. The department shall store any removed markers for at least 60 days. If after 60 days the memorial is not claimed, the department may dispose of the marker as it deems necessary.

Section 15. Paragraph (c) of subsection (6) of section 337.11, Florida Statutes, is amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(6)

(c) When the department determines that it is in the best interest of the public for reasons of public concern, economy, improved operations, or safety, and only for contracts for construction and maintenance which do not exceed \$250,000 when circumstances dictate rapid completion of the work, the department may, ~~up to the amount of \$120,000,~~ enter into contracts ~~for construction and maintenance~~ without advertising and receiving competitive bids. The department may enter into such contracts only upon a determination that the work is necessary for one of the following reasons:



463056

1. To ensure timely completion of projects or avoidance of undue delay for other projects;

2. To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or

3. To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.

The department shall make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract. The department shall give consideration to disadvantaged business enterprise participation. However, when the work exists within the limits of an existing contract, the department shall make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract.

Section 16. Subsection (5) is added to section 338.227, Florida Statutes, to read:

338.227 Turnpike revenue bonds.—

(5) Notwithstanding s. 215.82, bonds issued pursuant to this section are not required to be validated pursuant to chapter 75 but may be validated at the option of the Division of Bond Finance. Any complaint about such validation must be filed in the circuit court of the county in which the seat of state government is situated, and the clerk shall publish the notice as required by s. 75.06 only in the county in which the complaint is filed. The complaint and order of the circuit court must be served on the state attorney of the circuit in which the



463056

475 action is pending.

476 Section 17. Paragraph (e) of subsection (7) of section
477 339.135, Florida Statutes, is amended to read:

478 339.135 Work program; legislative budget request;
479 definitions; preparation, adoption, execution, and amendment.—

480 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

481 (e) Notwithstanding paragraphs (d), ~~and~~ (g), and (h) and
482 ss. 216.177(2) and 216.351, the secretary may request the
483 Executive Office of the Governor to amend the adopted work
484 program when an emergency exists, as defined in s. 252.34, and
485 the emergency relates to the repair or rehabilitation of any
486 state transportation facility. The Executive Office of the
487 Governor may approve the amendment to the adopted work program
488 and amend that portion of the department's approved budget if a
489 delay incident to the notification requirements in paragraph (d)
490 would be detrimental to the interests of the state. However, the
491 department shall immediately notify the parties specified in
492 paragraph (d) and provide such parties written justification for
493 the emergency action within 7 days after approval by the
494 Executive Office of the Governor of the amendment to the adopted
495 work program and the department's budget. The adopted work
496 program may not be amended under this subsection without
497 certification by the comptroller of the department that there
498 are sufficient funds available pursuant to the 36-month cash
499 forecast and applicable statutes.

500 Section 18. Section 339.2405, Florida Statutes, is amended
501 to read:

502 339.2405 Florida Highway Beautification Grant Program
503 Council.—



463056

(1) There is created within the Department of Transportation the Florida Highway Beautification Grant Program for the purpose of awarding grants to local governmental entities for beautification of roads on the State Highway System as provided in subsections (3) and (4). The department shall ~~Council. It shall consist of seven members appointed by the Governor. All appointed members must be residents of this state. One member must be a licensed landscape architect, one member must be a representative of the Florida Federation of Garden Clubs, Inc., one member must be a representative of the Florida Nurserymen and Growers Association, one member must be a representative of the department as designated by the head of the department, one member must be a representative of the Department of Agriculture and Consumer Services, and two members must be private citizens. The members of the council shall serve at the pleasure of the Governor.~~

~~(2) Each chair shall be selected by the council members and shall serve a 2-year term.~~

~~(3) The council shall meet no less than semiannually at the call of the chair or, in the chair's absence or incapacity, at the call of the head of the department. Four members shall constitute a quorum for the purpose of exercising all of the powers of the council. A vote of the majority of the members present shall be sufficient for all actions of the council.~~

~~(4) The council members shall serve without pay but shall be entitled to per diem and travel expenses pursuant to s. 112.061.~~

~~(5) A member of the council may not participate in any discussion or decision to recommend grants to any qualified~~



463056

~~local government with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.~~

~~(6) The council may prescribe, amend, and repeal bylaws governing the manner in which the business of the council is conducted.~~

~~(7)(a) The duties of the council shall be to:~~

~~(a)1. Provide information to local governments and local highway beautification councils regarding the state highway beautification grants program.~~

~~(b)2. Accept grant requests from local governments.~~

~~(c)3. Review grant requests for compliance with department council rules.~~

~~(d)4. Establish rules for evaluating and prioritizing the grant requests. The rules must include, but are not limited to, an examination of each grant's aesthetic value, cost-effectiveness, level of local support, feasibility of installation and maintenance, and compliance with state and federal regulations. Rules adopted by the department council which it uses to evaluate grant applications must take into consideration the contributions made by the highway beautification project in preventing litter.~~

~~(e)5. Maintain a prioritized list of approved grant requests. The list must include recommended funding levels for each request and, if staged implementation is appropriate, funding requirements for each stage shall be provided.~~

~~6. Assess the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways. In making~~



463056

~~such assessment, the council shall utilize data from other states which include indigenous wildflower and plant species in their highway vegetative management systems.~~

~~(b) The council may, at the request of the head of the department, review and make recommendations on any other highway beautification matters relating to the State Highway System.~~

~~(8) The head of the department shall provide from existing personnel such staff support services to the council as are necessary to enable the council to fulfill its duties and responsibilities.~~

~~(2)(9)~~ Local highway beautification councils may be created by local governmental entities or by the Legislature. Prior to being submitted to the department council, a grant request must be approved by the local government or governments of the area in which the project is located.

~~(3)(10)~~ The head of the department, ~~after receiving recommendations from the council,~~ shall award grants to local governmental entities that have submitted grant requests for beautification of roads on the State Highway System and which requests are on the ~~council's~~ approved list. The grants shall be awarded in the order they appear on the ~~council's~~ prioritized list and in accordance with available funding.

~~(4)(11)~~ State highway beautification grants may be requested only for projects to beautify through landscaping roads on the State Highway System. The grant request shall identify all costs associated with the project, including sprinkler systems, plant materials, equipment, and labor. A grant shall provide for the costs of purchase and installation of a sprinkler system, the cost of plant materials and



463056

fertilizer, and may provide for the costs for labor associated with the installation of the plantings. Each local government that receives a grant is ~~shall be~~ responsible for any costs for water, for the maintenance of the sprinkler system, for the maintenance of the landscaped areas in accordance with a maintenance agreement with the department, and, except as otherwise provided in the grant, for any costs for labor associated with the installation of the plantings. The department may provide, by contract, services to maintain such landscaping at a level not to exceed the cost of routine maintenance of an equivalent unlandscaped area.

~~(12) The council shall annually submit to the head of the Department of Transportation a proposal recommending the level of grant funding.~~

Section 19. Section 343.52, Florida Statutes, is reordered and amended to read:

343.52 Definitions.—As used in this part, the term:

(2) ~~(1)~~ "Authority" means the South Florida Regional Transportation Authority.

(3) ~~(2)~~ "Board" means the governing body of the authority.

(4) "Department" means the Department of Transportation.

(1) ~~(3)~~ "Area served" means Miami-Dade, Broward, and Palm Beach Counties. However, this area may be expanded by mutual consent of the authority and the board of county commissioners of Monroe County. The authority may not expand into any additional counties without the department's prior written approval.

(8) ~~(4)~~ "Transit system" means a system used for the transportation of people and goods by means of, without



463056

limitation, a street railway, an elevated railway having a fixed guideway, a commuter railroad, a subway, motor vehicles, or motor buses, and includes a complete system of tracks, stations, and rolling stock necessary to effectuate passenger service to or from the surrounding regional municipalities.

~~(7)(5)~~ "Transit facilities" means property, avenues of access, equipment, or buildings built and installed in Miami-Dade, Broward, and Palm Beach Counties which are required to support a transit system.

(6) "Member" means the individuals constituting the board.

~~(5)(7)~~ "Feeder transit services" means a transit system that transports passengers to or from stations within or across counties.

Section 20. Present subsections (4) and (5) of section 343.54, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and a new subsection (4) is added to that section, to read:

343.54 Powers and duties.—

(4) Notwithstanding any other provision of this part, the authority may not enter into, extend, or renew any contract or other agreement under this part without the department's prior review and written approval of the authority's proposed expenditures if such contract or agreement may be funded, in whole or in part, with funds provided by the department.

Section 21. Paragraph (c) of subsection (4) of section 343.58, Florida Statutes, is amended to read:

343.58 County funding for the South Florida Regional Transportation Authority.—

(4) Notwithstanding any other provision of law to the



463056

contrary and effective July 1, 2010, until as provided in paragraph (d), the department shall transfer annually from the State Transportation Trust Fund to the South Florida Regional Transportation Authority the amounts specified in subparagraph (a)1. or subparagraph (a)2.

(c)1. Funds provided to the authority by the department under this subsection constitute state financial assistance provided to a nonstate entity to carry out a state project subject to the provisions of ss. 215.97 and 215.971. The department shall provide the funds in accordance with the terms of a written agreement to be entered into between the authority and the department which shall provide for department review, approval and audit of authority expenditure of such funds, and shall include such other provisions as are required by applicable law. The department is specifically authorized to agree to advance the authority one-fourth of the total funding provided under this subsection for a state fiscal year at the beginning of each state fiscal year, with monthly payments over the fiscal year on a reimbursement basis as supported by invoices and such additional documentation and information as the department may reasonably require, and a reconciliation of the advance against remaining invoices in the last quarter of the fiscal year ~~may not be committed by the authority without the approval of the department, which may not be unreasonably withheld. At least 90 days before advertising any procurement or renewing any existing contract that will rely on state funds for payment, the authority shall notify the department of the proposed procurement or renewal and the proposed terms thereof. If the department, within 60 days after receipt of notice,~~



463056

~~objects in writing to the proposed procurement or renewal, specifying its reasons for objection, the authority may not proceed with the proposed procurement or renewal. Failure of the department to object in writing within 60 days after notice shall be deemed consent. This requirement does not impair or cause the authority to cancel contracts that exist as of June 30, 2012.~~

2. To enable the department to evaluate the authority's proposed uses of state funds, the authority shall annually provide the department with its proposed budget for the following authority fiscal year and shall promptly provide the department with any additional documentation or information required by the department for its evaluation of the proposed uses of the state funds.

Section 22. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Program, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds



463056

issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1),
Art. XII of the State Constitution or issued pursuant to s.
215.605 ~~or s. 338.227~~, the complaint shall be filed in the
circuit court of the county where the seat of state government
is situated, the notice required to be published by s. 75.06
shall be published in a newspaper of general circulation in the
county where the complaint is filed and in two other newspapers
of general circulation in the state, and the complaint and order
of the circuit court shall be served only on the state attorney
of the circuit in which the action is pending; provided,
however, that if publication of notice pursuant to this section
would require publication in more newspapers than would
publication pursuant to s. 75.06, such publication shall be made
pursuant to s. 75.06.

Section 23. Paragraph (d) of subsection (2) of section
343.53, Florida Statutes, is amended to read:

343.53 South Florida Regional Transportation Authority.—

(2) The governing board of the authority shall consist of
10 voting members, as follows:

(d) If the authority's service area is expanded pursuant to
s. 343.54(6) ~~s. 343.54(5)~~, the county containing the new service
area shall have two members appointed to the board as follows:

1. The county commission of the county shall elect a
commissioner as that commission's representative on the board.
The commissioner must be a member of the county commission when
elected and for the full extent of his or her term.

2. The Governor shall appoint a citizen member to the board
who is not a member of the county commission but who is a
resident and a qualified elector of that county.



463056

Section 24. Section 427.011, Florida Statutes, is reordered and amended to read:

427.011 Definitions.—For the purposes of ss. 427.011-427.017:

(9)~~(1)~~ "Transportation disadvantaged" means those persons who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk as defined in s. 411.202.

(5)~~(2)~~ "Metropolitan planning organization" means the organization responsible for carrying out transportation planning and programming in accordance with the provisions of 23 U.S.C. s. 134, as provided in 23 U.S.C. s. 104(f)(3).

(1)~~(3)~~ "Agency" means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or any other unit or entity of the state or of a city, town, municipality, county, or other local governing body or a private nonprofit transportation service-providing agency.

(11)~~(4)~~ "Transportation improvement program" means a staged multiyear program of transportation improvements, including an annual element, which is developed by a metropolitan planning organization or designated official planning agency.

(2)~~(5)~~ "Community transportation coordinator" means a transportation entity recommended by a metropolitan planning organization, or by the appropriate designated official planning agency as provided for in ss. 427.011-427.017 in an area outside



463056

the purview of a metropolitan planning organization, to ensure that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area.

~~(12)(6)~~ "Transportation operator" means one or more public, private for-profit, or private nonprofit entities engaged by the community transportation coordinator to provide service to transportation disadvantaged persons pursuant to a coordinated system service plan.

~~(3)(7)~~ "Coordinating board" means an advisory entity in each designated service area composed of representatives appointed by the metropolitan planning organization or designated official planning agency, to provide assistance to the community transportation coordinator relative to the coordination of transportation services.

(8) "Purchasing agency" means a department or agency whose head is an ex officio, nonvoting adviser to the commission, or an agency that purchases transportation services for the transportation disadvantaged.

~~(7)(9)~~ "Paratransit" means those elements of public transit which provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and provider of the service. Paratransit service is provided by taxis, limousines, "dial-a-ride," buses, transportation network companies, and other demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature.

(10) "Transportation disadvantaged funds" means any local government, state, or available federal funds that are for the



463056

transportation of the transportation disadvantaged. Such funds may include, but are not limited to, funds for planning, Medicaid transportation, administration, operation, procurement, and maintenance of vehicles or equipment and capital investments. Transportation disadvantaged funds do not include funds for the transportation of children to public schools.

(4)~~(11)~~ "Coordination" means the arrangement for the provision of transportation services to the transportation disadvantaged in a manner that is cost-effective, efficient, and reduces fragmentation and duplication of services.

(6)~~(12)~~ "Nonsponsored transportation disadvantaged services" means transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.

Section 25. Subsection (1) of section 316.2128, Florida Statutes, is amended to read:

316.2128 Operation of motorized scooters and miniature motorcycles; requirements for sales.—

(1) A person who engages in the business of, serves in the capacity of, or acts as a commercial seller of motorized scooters or miniature motorcycles in this state must prominently display at his or her place of business a notice that such vehicles are not legal to operate on public roads, may not be registered as motor vehicles, and may not be operated on sidewalks unless authorized by an ordinance enacted pursuant to s. 316.008(7)(a) ~~316.008(7)~~ or s. 316.212(8). The required notice must also appear in all forms of advertising offering motorized scooters or miniature motorcycles for sale. The notice and a copy of this section must also be provided to a consumer



463056

prior to the consumer's purchasing or becoming obligated to
purchase a motorized scooter or a miniature motorcycle.

Section 26. Paragraph (a) of subsection (2) of section
316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(2) As used in this section, the term "motor vehicle" means
a motor vehicle as defined in s. 316.003 that is operated on the
roadways, streets, and highways of the state. The term does not
include:

(a) A school bus as defined in s. 316.003 ~~316.003(68)~~.

Section 27. Subsection (1) of section 655.960, Florida
Statutes, is amended to read:

655.960 Definitions; ss. 655.960-655.965.—As used in this
section and ss. 655.961-655.965, unless the context otherwise
requires:

(1) "Access area" means any paved walkway or sidewalk which
is within 50 feet of any automated teller machine. The term does
not include any street or highway open to the use of the public,
as defined in s. 316.003(79)(a) or (b) ~~316.003(77)(a) or (b)~~,
including any adjacent sidewalk, as defined in s. 316.003.

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

And the title is amended as follows:

Delete lines 2 - 130

and insert:

An act relating to transportation; amending s.

316.003, F.S.; revising and providing definitions;

amending s. 316.008, F.S.; authorizing operation of

personal delivery devices within a county or



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municipality under certain circumstances; providing construction; providing exceptions; creating s. 316.0898, F.S.; requiring the Department of Transportation, in consultation with the Department of Highway Safety and Motor Vehicles, to develop the Florida Smart City Challenge grant program; specifying requirements for grant program applicants; establishing goals for the grant program; requiring the Department of Transportation to develop specified criteria for the program grants and a plan for promotion of the grant program; authorizing the Department of Transportation to contract with a third party that demonstrates certain knowledge and expertise for a specified purpose; requiring the Department of Transportation to submit certain information regarding the grant program to the Governor and the Legislature by a specified date; providing for repeal; creating s. 316.2071, F.S.; providing requirements for the operation of personal delivery devices; requiring specified insurance coverage; amending s. 316.545, F.S.; conforming a cross-reference; providing for the calculation of fines for unlawful weight and load for a vehicle fueled by natural gas; requiring the vehicle operator to present a certain written certification upon request by a weight inspector or law enforcement officer; prescribing a maximum actual gross vehicle weight for vehicles fueled by natural gas; providing applicability; creating s. 316.851, F.S.; requiring an



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autonomous vehicle used by a transportation network company to be covered by automobile insurance, subject to certain requirements; requiring an autonomous vehicle used to provide a transportation service to carry in the vehicle proof of coverage satisfying certain requirements at all times while operating in autonomous mode; creating s. 316.853, F.S.; defining the term "automated mobility district"; requiring the Department of Transportation to designate automated mobility districts; requiring the department to consider applicable criteria from federal agencies for automated mobility districts in determining eligibility of a community for the designation; amending s. 319.145, F.S.; requiring an autonomous vehicle registered in this state to be capable of bringing the vehicle to a full stop when an alert is given if the human operator does not, or is not able to, take control of the autonomous vehicle, or if a human operator is not physically present in the vehicle; amending s. 320.01, F.S.; excluding personal delivery devices from the definition of the term "motor vehicle"; amending s. 320.02, F.S.; exempting a personal delivery device from certain registration and insurance requirements; amending ss. 324.021 and 324.022, F.S.; excluding personal delivery devices from the definition of the term "motor vehicle"; amending s. 335.074, F.S.; requiring bridges on public transportation facilities to be inspected for certain purposes at regular intervals as required by the



463056

Federal Highway Administration; creating s. 335.094, F.S.; providing legislative intent; requiring the department to establish a process, including any forms deemed necessary by the department, for submitting applications for installation of a memorial marker; specifying persons who may submit such applications to the department; requiring the department to establish criteria for the design and fabrication of memorial markers; authorizing the department to install a certain sign at no charge to an applicant; providing that memorial markers may incorporate the available emblems of belief approved by the United States Department of Veterans Affairs National Cemetery Administration upon the request of the applicant and payment of a reasonable fee set by the department to offset production costs; defining the term "emblem of belief"; authorizing an applicant to request a new emblem of belief not specifically approved by the United States Department of Veterans Affairs National Cemetery Administration for inscription on a memorial marker, subject to certain requirements; requiring the department, under certain circumstances, to notify an applicant of any missing information and that no further action on the application will be taken until the missing information is provided; providing requirements for placement of the memorial marker by the department; requiring the department to remove a memorial marker if the department determines the presence of the marker creates a safety hazard,



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subject to certain requirements; amending s. 337.11, F.S.; increasing the allowable amount for contracts for construction and maintenance which the department may enter into, in certain circumstances, without advertising and receiving competitive bids; amending s. 338.227, F.S.; providing that certain bonds are not required to be validated but may be validated at the option of the Division of Bond Finance; providing filing, notice, and service requirements for complaints and circuit court orders concerning such validation; amending s. 339.135, F.S.; providing an additional exception related to the amendment of adopted work programs when an emergency exists; amending s. 339.2405, F.S.; replacing the Florida Highway Beautification Council within the department with the Florida Highway Beautification Grant Program; providing the purpose of the program; providing duties of the department; conforming provisions to changes made by the act; amending s. 343.52, F.S.; defining the term "department"; amending s. 343.54, F.S.; prohibiting the South Florida Regional Transportation Authority from entering into, extending, or renewing certain contracts or other agreements without the department's prior review and written approval if such contracts or agreements may be funded with funds provided by the department; amending s. 343.58, F.S.; providing that certain funds provided to the authority by the department constitute state financial assistance for specified purposes, subject to certain



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requirements; requiring the department to provide certain funds in accordance with the terms of an agreement between the authority and the department; authorizing the department to advance the authority a certain amount of the total funding for a state fiscal year at the beginning of each state fiscal year, subject to certain requirements; requiring the authority to promptly provide the department any documentation or information, in addition to the proposed annual budget, which is required by the department for its evaluation of the proposed uses of state funds; amending s. 215.82, F.S.; conforming a provision to changes made by the act; amending s. 343.53, F.S.; conforming a cross-reference; amending s. 427.011, F.S.; revising the definition of the term "paratransit"; authorizing the Secretary of Transportation to enroll the State of Florida in federal pilot programs or projects for the collection and study of data for the review of federal or state roadway safety, infrastructure sustainability, congestion mitigation, transportation system efficiency, autonomous vehicle technology, or capacity challenges; amending ss. 316.2128, 316.613, and 655.960, F.S.; conforming cross-references; providing effective dates, one of which is



536292

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/28/2017	.	
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The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment to Amendment (463056) (with title amendment)

Between lines 296 and 297
insert:

Section 11. Section 320.0605, Florida Statutes, is amended to read:

320.0605 Certificate of registration; possession required; exception.—

(1) (a) The registration certificate or an official copy



536292

thereof, a true copy or electronic copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period, a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet, or a cab card issued for a vehicle registered under the International Registration Plan shall, at all times while the vehicle is being used or operated on the roads of this state, be in the possession of the operator thereof or be carried in the vehicle for which issued and shall be exhibited upon demand of any authorized law enforcement officer or any agent of the department, except for a vehicle registered under s. 320.0657. ~~The provisions of~~ This section does ~~do~~ not apply during the first 30 days after purchase of a replacement vehicle. A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(b)1. The act of presenting to a law enforcement officer or an agent of the department an electronic device displaying an electronic copy of rental or lease documentation does not constitute consent for the officer or agent to access any information on the device other than the displayed rental or lease documentation.

2. The person who presents the device to the officer or agent assumes the liability for any resulting damage to the device.

(2) Rental or lease documentation that is sufficient to satisfy the requirement in subsection (1) includes the following:

(a) ~~Date of rental and time of exit from rental facility;~~



536292

(b) Rental station identification;
(c) Rental agreement number;
(d) Rental vehicle identification number;
(e) Rental vehicle license plate number and state of
registration;
(f) Vehicle's make, model, and color;
(g) Vehicle's mileage; and
(h) Authorized renter's name.

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

And the title is amended as follows:

Delete line 904

and insert:

insurance requirements; amending s. 320.0605, F.S.;
providing that an electronic copy of rental or lease
documentation issued for a motor vehicle or issued for
a replacement vehicle in the same registration period
may be in the possession of the operator or be carried
in the vehicle, to be exhibited upon demand of any
authorized law enforcement officer or any agent of the
Department of Highway Safety and Motor Vehicles;
providing that the act of presenting to a law
enforcement officer or an agent of the department an
electronic device displaying an electronic copy of
rental or lease documentation does not constitute
consent for the officer or agent to access any
information on the device other than the displayed
rental or lease documentation; providing that the
person who presents the device to the officer or agent



536292

69 assumes the liability for any resulting damage to the
70 device; revising information in rental or lease
71 documentation that is sufficient to satisfy a certain
72 requirement; amending ss. 324.021 and



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Between lines 389 and 390
insert:

Section 9. Paragraph (a) of subsection (1) of section
337.401, Florida Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to
regulation; permit; fees.—

(1)(a) The department and local governmental entities,
referred to in this section and in ss. 337.402, 337.403, and



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337.404 as the "authority," that have jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining across, on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdictions any electric transmission, voice telephone, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section and in ss. 337.402, 337.403, and 337.404 as the "utility." The department may enter into a permit-delegation agreement with a governmental entity if issuance of a permit is based on requirements that the department finds will ensure the safety and integrity of facilities of the Department of Transportation; however, the permit-delegation agreement does not apply to facilities of electric utilities as defined in s. 366.02(2).

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

And the title is amended as follows:

Delete line 83

and insert:

receiving competitive bids; amending s. 337.401, F.S.; authorizing the Department of Transportation and certain local governmental entities to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining across, on, or within the right-of-way limits of any road or publicly owned



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40 rail corridors under their respective jurisdictions
41 any voice or data communications services lines or
42 wireless facilities; amending s. 338.227, F.S.;



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/24/2017	.	
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The Committee on Appropriations (Gainer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 402 - 403
and insert:

Section 10. Subsection (4) is added to section 338.2275,
Florida Statutes, to read:

338.2275 Approved turnpike projects.—

(1) Legislative approval of the department's tentative work
program that contains the turnpike project constitutes approval
to issue bonds as required by s. 11(f), Art. VII of the State



404224

Constitution. No more than \$10 billion of bonds may be outstanding to fund approved turnpike projects.

(2) The department may use turnpike revenues, the State Transportation Trust Fund moneys allocated for turnpike projects pursuant to s. 339.65, federal funds, and bond proceeds, and shall use the most cost-efficient combination of such funds, in developing a financial plan for funding turnpike projects. The department must submit a report of the estimated cost for each ongoing turnpike project and for each planned project to the Legislature 14 days before the convening of the regular legislative session. Verification of economic feasibility and statements of environmental feasibility for individual turnpike projects must be based on the entire project as approved.

Statements of environmental feasibility are not required for those projects listed in s. 12, chapter 90-136, Laws of Florida, for which the Project Development and Environmental Reports were completed by July 1, 1990. All required environmental permits must be obtained before the department may advertise for bids for contracts for the construction of any turnpike project.

(3) Bonds may not be issued to fund a turnpike project until the department has made a final determination that the project is economically feasible in accordance with s. 338.221, based on the most current information available.

(4) (a) Subject to the verification of economic feasibility by the department in accordance with s. 338.221(8), the department may include the acquisition of the Garcon Point Bridge, and related assets, as a turnpike project in its tentative work program in accordance with s. 338.223. Upon approval of the acquisition through approval of the department's



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tentative work program in accordance with s. 339.135, the department may acquire the Garcon Point Bridge, including related assets, and as part of such acquisition may purchase outstanding Santa Rosa Bay Bridge Authority bonds. The department has the authority to enter into any agreements necessary to implement the acquisition, including the purchase of Santa Rosa Bay Bridge Authority bonds, and to specify the terms and conditions thereof. Upon acquisition, the Garcon Point Bridge shall become a part of the turnpike system. Pursuant to section 11(f), Art. VII of the State Constitution, the issuance of revenue bonds to finance the department's acquisition of the Garcon Point Bridge is approved.

(b) The acquisition price paid by the department shall first be used to settle all claims of bondholders of the Santa Rosa Bay Bridge Authority Revenue Bonds, Series 1996.

(c) No toll rate increase may be imposed on the Garcon Point Bridge by the authority, the department, or the trustee for bondholders, in connection with the acquisition of the bridge by the department. Following any acquisition by the department, no increase in tolls for use of the bridge shall be permitted except as required by law or as required to comply with the covenants contained in any resolution under which bonds have been issued.

(d) Neither the department nor the state shall incur any financial obligation for the acquisition of the Garcon Point Bridge in excess of forecasted gross revenues from the operation of the bridge. Therefore, the total acquisition price paid by the department may not exceed the present value of the gross revenues (calculated without any increase in the existing toll



404224

rate) anticipated to be collected from the operation of the bridge between the date of a purchase agreement in accordance with this section and the end of the anticipated remaining useful life of the bridge as it exists as of the date of the purchase agreement.

(e) Upon the acquisition of the Garcon Point Bridge as authorized by this subsection, the October 23, 1996, Lease Purchase Agreement between the authority and the department, as amended, shall be terminated.

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

And the title is amended as follows:

Delete line 88

and insert:

court orders concerning such validation; amending s. 338.2275, F.S.; authorizing the department to include the acquisition of the Garcon Point Bridge and related assets as a turnpike project in the department's tentative work program, subject to certain requirements; authorizing the department to acquire the bridge and outstanding Santa Rosa Bay Bridge Authority bonds upon approval of the acquisition through approval of the department's tentative work program; authorizing the department to enter into necessary agreements to implement the acquisition and to specify the terms and conditions thereof; providing that the bridge becomes a part of the turnpike system upon its acquisition; approving the issuance of revenue bonds; requiring the acquisition price paid by



404224

the department to first be used to settle all claims of the holders of certain Santa Rosa Bay Bridge Authority Revenue Bonds; prohibiting a toll rate increase in connection with the acquisition of the bridge; prohibiting any increase in tolls for use of the bridge following its acquisition, except as required by law or to comply with bond covenants; prohibiting the department or the state from incurring any financial obligation for the acquisition in excess of certain gross revenues; providing that the acquisition price paid by the department may not exceed the present value of certain gross revenues; terminating a certain lease-purchase agreement between the Santa Rosa Bay Bridge Authority and the department upon the acquisition of the Garcon Point Bridge; repealing part IV of chapter 348, F.S., relating to the Santa Rosa Bay Bridge Authority, upon acquisition of the bridge; amending s.



268346

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/24/2017	.	
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The Committee on Appropriations (Montford) recommended the following:

Senate Amendment (with title amendment)

Between lines 734 and 735
insert:

Section 18. Section 501.977, Florida Statutes, is created
to read:

501.977 Installation of unsafe tires.—

(1) A person in this state may not, for compensation,
install tires on a motor vehicle with a gross vehicle weight
rating of 10,000 pounds or less for use on public streets,



268346

roads, or highways if any of the following conditions exist:

(a) Any area of the tire's tread is worn to 2/32-inch tread depth or less.

(b) Damage to the tire, including any cut, crack, bulge, puncture, scrape, or wear, that exposes the reinforcing plies of the tire.

(c) The tire has been repaired in one or more of the following manners:

1. A repair made in the tread shoulder or belt edge area of the tire.

2. A puncture repair using a cured rubber stem or plug through to the outside of the tire instead of the puncture being patched or sealed on the inside of the tire.

3. A repair to the sidewall or bead area of the tire.

4. A repair of a puncture larger than one-fourth of an inch.

(d) The tire shows evidence of a temporary tire sealant having been used without a subsequent proper repair.

(e) The tire identification number has been defaced or removed.

(f) The tire has inner liner or bead damage.

(g) The tire shows evidence of internal separation, such as a bulge or an area of irregular tread wear.

(2) A person who knowingly violates this section commits a deceptive and unfair trade practice actionable under the Florida Deceptive and Unfair Trade Practices Act pursuant to part II of this chapter.

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



268346

40 And the title is amended as follows:
41 Delete line 123
42 and insert:
43 "paratransit"; creating s. 501.977, F.S.; prohibiting
44 the installation, for compensation, of certain tires
45 on specified motor vehicles; specifying what
46 constitutes an unsafe used tire; providing that
47 violations of the act are deceptive and unfair trade
48 practices; authorizing the Secretary of



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gainer) recommended the following:

Senate Amendment (with title amendment)

Between lines 740 and 741
insert:

Section 18. Subsection (4) is added to section 338.2275,
Florida Statutes, to read:

338.2275 Approved turnpike projects.—

(1) Legislative approval of the department's tentative work
program that contains the turnpike project constitutes approval
to issue bonds as required by s. 11(f), Art. VII of the State



788242

Constitution. No more than \$10 billion of bonds may be outstanding to fund approved turnpike projects.

(2) The department may use turnpike revenues, the State Transportation Trust Fund moneys allocated for turnpike projects pursuant to s. 339.65, federal funds, and bond proceeds, and shall use the most cost-efficient combination of such funds, in developing a financial plan for funding turnpike projects. The department must submit a report of the estimated cost for each ongoing turnpike project and for each planned project to the Legislature 14 days before the convening of the regular legislative session. Verification of economic feasibility and statements of environmental feasibility for individual turnpike projects must be based on the entire project as approved.

Statements of environmental feasibility are not required for those projects listed in s. 12, chapter 90-136, Laws of Florida, for which the Project Development and Environmental Reports were completed by July 1, 1990. All required environmental permits must be obtained before the department may advertise for bids for contracts for the construction of any turnpike project.

(3) Bonds may not be issued to fund a turnpike project until the department has made a final determination that the project is economically feasible in accordance with s. 338.221, based on the most current information available.

(4) (a) Subject to the verification of economic feasibility by the department in accordance with s. 338.221(8), the department may include the acquisition of the Garcon Point Bridge, and related assets, as a turnpike project in its tentative work program in accordance with s. 338.223. Upon approval of the acquisition through approval of the department's



788242

tentative work program in accordance with s. 339.135, the department may acquire the Garcon Point Bridge, including related assets, and as part of such acquisition may purchase outstanding Santa Rosa Bay Bridge Authority bonds. The department has the authority to enter into any agreements necessary to implement the acquisition, including the purchase of Santa Rosa Bay Bridge Authority bonds, and to specify the terms and conditions thereof. Upon acquisition, the Garcon Point Bridge shall become a part of the turnpike system. Pursuant to section 11(f), Art. VII of the State Constitution, the issuance of revenue bonds to finance the department's acquisition of the Garcon Point Bridge is approved.

(b) The acquisition price paid by the department shall first be used to settle all claims of bondholders of the Santa Rosa Bay Bridge Authority Revenue Bonds, Series 1996.

(c) No toll rate increase may be imposed on the Garcon Point Bridge by the authority, the department, or the trustee for bondholders, in connection with the acquisition of the bridge by the department. Following any acquisition by the department, no increase in tolls for use of the bridge shall be permitted except as required by law or as required to comply with the covenants contained in any resolution under which bonds have been issued.

(d) Neither the department nor the state shall incur any financial obligation for the acquisition of the Garcon Point Bridge in excess of forecasted gross revenues from the operation of the bridge. Therefore, the total acquisition price paid by the department may not exceed the present value of the gross revenues (calculated without any increase in the existing toll



788242

rate) anticipated to be collected from the operation of the bridge between the date of a purchase agreement in accordance with this section and the end of the anticipated remaining useful life of the bridge as it exists as of the date of the purchase agreement.

(e) Upon the acquisition of the Garcon Point Bridge as authorized by this subsection, the October 23, 1996, Lease Purchase Agreement between the authority and the department, as amended, shall be terminated.

Section 19. Upon acquisition of the Garcon Point Bridge as authorized by subsection (4) of s. 338.2275, part IV of chapter 348, consisting of ss. 348.965-348.9781, is repealed.

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

And the title is amended as follows:

Delete line 88
and insert:

court orders concerning such validation; amending s. 338.2275, F.S.; authorizing the department to include the acquisition of the Garcon Point Bridge and related assets as a turnpike project in the department's tentative work program, subject to certain requirements; authorizing the department to acquire the bridge and outstanding Santa Rosa Bay Bridge Authority bonds upon approval of the acquisition through approval of the department's tentative work program; authorizing the department to enter into necessary agreements to implement the acquisition and to specify the terms and conditions thereof; providing



788242

that the bridge becomes a part of the turnpike system upon its acquisition; approving the issuance of revenue bonds; requiring the acquisition price paid by the department to first be used to settle all claims of the holders of certain Santa Rosa Bay Bridge Authority Revenue Bonds; prohibiting a toll rate increase in connection with the acquisition of the bridge; prohibiting any increase in tolls for use of the bridge following its acquisition, except as required by law or to comply with bond covenants; prohibiting the department or the state from incurring any financial obligation for the acquisition in excess of certain gross revenues; providing that the acquisition price paid by the department may not exceed the present value of certain gross revenues; terminating a certain lease-purchase agreement between the Santa Rosa Bay Bridge Authority and the department upon the acquisition of the Garcon Point Bridge; repealing part IV of chapter 348, F.S., relating to the Santa Rosa Bay Bridge Authority, upon acquisition of the bridge; amending s.



754266

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Braynon) recommended the following:

Senate Amendment (with title amendment)

Between lines 740 and 741
insert:

Section 19. Broward County has undergone significant expansion of its interstate system over the last 5 years. Broward County is the second most populous county in the state and is largely built out. The expansion of Broward County interstate highways occurred in fully developed areas in which relocation of permitted signs is difficult; the placement of new



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ramps, bridges, and other construction within the interstate right-of-way can hinder the ability of the public to view existing permitted signs; and allowing a minimal height increase based upon the height of the obstruction is reasonable.

Section 20. Notwithstanding general law to the contrary, in the event that a properly permitted sign on an interstate highway within Broward County is subsequently obstructed by the construction of a ramp, braided bridge, or other permanent visual obstruction within the interstate right-of-way, the allowable height of the permitted sign shall be measured from the top of the visual obstruction. However, the height of the sign may not exceed 100 feet above the crown of the main traveled way of the road to which the sign is permitted regardless of the height of the visual obstruction.

Section 21. The Department of Transportation is authorized to promulgate any rules or forms necessary to implement this act.

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

And the title is amended as follows:

Delete line 130
and insert:
challenges; providing legislative findings; providing for an alternate means to measure permitted sign height on interstate highways within Broward County; providing for the Department of Transportation to promulgate rules; providing effective dates, one of which is



304644

576-03797-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to transportation; creating s.

316.0898, F.S.; requiring the Department of

Transportation, in consultation with the Department of
Highway Safety and Motor Vehicles, to develop the

Florida Smart City Challenge grant program; specifying
requirements for grant program applicants;

establishing goals for the grant program; requiring

the Department of Transportation to develop specified

criteria for the program grants and a plan for

promotion of the grant program; authorizing the

Department of Transportation to contract with a third

party that demonstrates certain knowledge and

expertise for a specified purpose; requiring the

Department of Transportation to submit certain

information regarding the grant program to the

Governor and the Legislature by a specified date;

providing for repeal; amending s. 316.545, F.S.;

providing for the calculation of fines for unlawful
weight and load for a vehicle fueled by natural gas;

requiring the vehicle operator to present a certain

written certification upon request by a weight

inspector or law enforcement officer; prescribing a

maximum actual gross vehicle weight for vehicles

fueled by natural gas; providing applicability;

creating s. 316.851, F.S.; requiring an autonomous



304644

576-03797-17

vehicle used by a transportation network company to be
covered by automobile insurance, subject to certain
requirements; requiring an autonomous vehicle used to
provide a transportation service to carry in the
vehicle proof of coverage satisfying certain
requirements at all times while operating in
autonomous mode; creating s. 316.853, F.S.; defining
the term "automated mobility district"; requiring the
Department of Transportation to designate automated
mobility districts; requiring the department to
consider applicable criteria from federal agencies for
automated mobility districts in determining
eligibility of a community for the designation;
amending s. 319.145, F.S.; requiring an autonomous
vehicle registered in this state to be capable of
bringing the vehicle to a full stop when an alert is
given if the human operator does not, or is not able
to, take control of the autonomous vehicle, or if a
human operator is not physically present in the
vehicle; amending s. 335.074, F.S.; requiring bridges
on public transportation facilities to be inspected
for certain purposes at regular intervals as required
by the Federal Highway Administration; creating s.
335.094, F.S.; providing legislative intent; requiring
the department to establish a process, including any
forms deemed necessary by the department, for
submitting applications for installation of a memorial
marker; specifying persons who may submit such
applications to the department; requiring the



304644

576-03797-17

56 department to establish criteria for the design and
57 fabrication of memorial markers; authorizing the
58 department to install a certain sign at no charge to
59 an applicant; providing that memorial markers may
60 incorporate the available emblems of belief approved
61 by the United States Department of Veterans Affairs
62 National Cemetery Administration upon the request of
63 the applicant and payment of a reasonable fee set by
64 the department to offset production costs; defining
65 the term "emblem of belief"; authorizing an applicant
66 to request a new emblem of belief not specifically
67 approved by the United States Department of Veterans
68 Affairs National Cemetery Administration for
69 inscription on a memorial marker, subject to certain
70 requirements; requiring the department, under certain
71 circumstances, to notify an applicant of any missing
72 information and that no further action on the
73 application will be taken until the missing
74 information is provided; providing requirements for
75 placement of the memorial marker by the department;
76 requiring the department to remove a memorial marker
77 if the department determines the presence of the
78 marker creates a safety hazard, subject to certain
79 requirements; amending s. 337.11, F.S.; increasing the
80 allowable amount for contracts for construction and
81 maintenance which the department may enter into, in
82 certain circumstances, without advertising and
83 receiving competitive bids; amending s. 338.227, F.S.;
84 providing that certain bonds are not required to be



304644

576-03797-17

85 validated but may be validated at the option of the
86 Division of Bond Finance; providing filing, notice,
87 and service requirements for complaints and circuit
88 court orders concerning such validation; amending s.
89 339.135, F.S.; providing an additional exception
90 related to the amendment of adopted work programs when
91 an emergency exists; amending s. 339.2405, F.S.;
92 replacing the Florida Highway Beautification Council
93 within the department with the Florida Highway
94 Beautification Grant Program; providing the purpose of
95 the program; providing duties of the department;
96 conforming provisions to changes made by the act;
97 amending s. 343.52, F.S.; defining the term
98 "department"; amending s. 343.54, F.S.; prohibiting
99 the South Florida Regional Transportation Authority
100 from entering into, extending, or renewing certain
101 contracts or other agreements without the department's
102 prior review and written approval if such contracts or
103 agreements may be funded with funds provided by the
104 department; amending s. 343.58, F.S.; providing that
105 certain funds provided to the authority by the
106 department constitute state financial assistance for
107 specified purposes, subject to certain requirements;
108 requiring the department to provide certain funds in
109 accordance with the terms of an agreement between the
110 authority and the department; authorizing the
111 department to advance the authority a certain amount
112 of the total funding for a state fiscal year at the
113 beginning of each state fiscal year, subject to



304644

576-03797-17

114 certain requirements; requiring the authority to
115 promptly provide the department any documentation or
116 information, in addition to the proposed annual
117 budget, which is required by the department for its
118 evaluation of the proposed uses of state funds;
119 amending s. 215.82, F.S.; conforming a provision to
120 changes made by the act; amending s. 343.53, F.S.;
121 conforming a cross-reference; amending s. 427.011,
122 F.S.; revising the definition of the term
123 "paratransit"; authorizing the Secretary of
124 Transportation to enroll the State of Florida in
125 federal pilot programs or projects for the collection
126 and study of data for the review of federal or state
127 roadway safety, infrastructure sustainability,
128 congestion mitigation, transportation system
129 efficiency, autonomous vehicle technology, or capacity
130 challenges; providing effective dates, one of which is
131 contingent.

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

134
135 Section 1. Section 316.0898, Florida Statutes, is created
136 to read:

137 316.0898 Florida Smart City Challenge grant program.-

138 (1) The Department of Transportation, in consultation with
139 the Department of Highway Safety and Motor Vehicles, shall
140 develop the Florida Smart City Challenge grant program and shall
141 establish grant award requirements for municipalities or regions
142 for the purpose of receiving grant awards. Grant applicants must



304644

576-03797-17

143 demonstrate and document the adoption of emerging technologies
144 and their impact on the transportation system and must address
145 at least the following focus areas:

146 (a) Autonomous vehicles.

147 (b) Connected vehicles.

148 (c) Sensor-based infrastructure.

149 (d) Collecting and using data.

150 (e) Electric vehicles, including charging stations.

151 (f) Developing strategic models and partnerships.

152 (2) The goals of the grant program include, but are not
153 limited to:

154 (a) Identifying transportation challenges and identifying
155 how emerging technologies can address those challenges.

156 (b) Determining the emerging technologies and strategies
157 that have the potential to provide the most significant impacts.

158 (c) Encouraging municipalities to take significant steps to
159 integrate emerging technologies into their day-to-day
160 operations.

161 (d) Identifying the barriers to implementing the grant
162 program and communicating those barriers to the Legislature and
163 appropriate agencies and organizations.

164 (e) Leveraging the initial grant to attract additional
165 public and private investments.

166 (f) Increasing the state's competitiveness in the pursuit
167 of grants from the United States Department of Transportation,
168 the United States Department of Energy, and other federal
169 agencies.

170 (g) Committing to the continued operation of programs
171 implemented in connection with the grant.



304644

576-03797-17

172 (h) Serving as a model for municipalities nationwide.
173 (i) Documenting the costs and impacts of the grant program
174 and lessons learned during implementation.
175 (j) Identifying solutions that will demonstrate local or
176 regional economic impact.
177 (3) The Department of Transportation shall develop
178 eligibility, application, and selection criteria for the program
179 grants and a plan for the promotion of the grant program to
180 municipalities or regions of this state as an opportunity to
181 compete for grant funding, including the award of grants to a
182 single recipient and secondary grants to specific projects of
183 merit within other applications. The Department of
184 Transportation may contract with a third party that demonstrates
185 knowledge and expertise in the focuses and goals of this section
186 to provide guidance in the development of the requirements of
187 this section.
188 (4) On or before January 1, 2018, the Department of
189 Transportation shall submit the grant program guidelines and
190 plans for promotion of the grant program to the Governor, the
191 President of the Senate, and the Speaker of the House of
192 Representatives.
193 (5) This section expires July 1, 2018.
194 Section 2. Present paragraphs (c) and (d) of subsection (3)
195 of section 316.545, Florida Statutes, are redesignated as
196 paragraphs (d) and (e), respectively, and a new paragraph (c) is
197 added to that subsection, to read:
198 316.545 Weight and load unlawful; special fuel and motor
199 fuel tax enforcement; inspection; penalty; review.-
200 (3)



304644

576-03797-17

201 (c)1. For a vehicle fueled by natural gas, the fine is
202 calculated by reducing the actual gross vehicle weight by the
203 certified weight difference between the natural gas tank and
204 fueling system and a comparable diesel tank and fueling system.
205 Upon the request of a weight inspector or a law enforcement
206 officer, the vehicle operator shall present a written
207 certification that identifies the weight of the natural gas tank
208 and fueling system and the difference in weight of a comparable
209 diesel tank and fueling system. The written certification must
210 originate from the vehicle manufacturer or the installer of the
211 natural gas tank and fueling system.
212 2. The actual gross vehicle weight for vehicles fueled by
213 natural gas may not exceed 82,000 pounds, excluding the weight
214 allowed for idle-reduction technology under paragraph (b).
215 3. This paragraph does not apply to vehicles described in
216 s. 316.535(6).
217 Section 3. Effective upon the same date that SB 340 or
218 similar legislation takes effect, if such legislation is adopted
219 in the 2017 Regular Session or any extension thereof and becomes
220 a law, section 316.851, Florida Statutes, is created to read:
221 316.851 Autonomous vehicles; providing prearranged rides.-
222 (1) An autonomous vehicle used by a transportation network
223 company to provide a prearranged ride must be covered by
224 automobile insurance as required by s. 627.748, regardless of
225 whether a human operator is physically present within the
226 vehicle when the ride occurs. When an autonomous vehicle is
227 logged on to a digital network but is not engaged in a
228 prearranged ride, the autonomous vehicle must maintain insurance
229 coverage as defined in s. 627.748(7)(b).



304644

576-03797-17

230 (2) An autonomous vehicle used to provide a transportation
231 service shall carry in the vehicle proof of coverage satisfying
232 the requirements of this section at all times while operating in
233 autonomous mode.

234 Section 4. Section 316.853, Florida Statutes, is created to
235 read:

236 316.853 Automated mobility districts.-

237 (1) For the purpose of this section, an "automated mobility
238 district" means a master planned development or combination of
239 contiguous developments in which the deployment of autonomous
240 vehicles as defined in s. 316.003 as the basis for a shared
241 mobility system is a stated goal or objective of the development
242 or developments.

243 (2) The Department of Transportation shall designate
244 automated mobility districts.

245 (3) In determining the eligibility of a community for
246 designation as an automated mobility district, the Department of
247 Transportation shall consider applicable criteria from federal
248 agencies for automated mobility districts and apply those
249 criteria to eligible developments in this state.

250 Section 5. Paragraph (a) of subsection (1) of section
251 319.145, Florida Statutes, is amended to read:

252 319.145 Autonomous vehicles.-

253 (1) An autonomous vehicle registered in this state must
254 continue to meet applicable federal standards and regulations
255 for such motor vehicle. The vehicle must:

256 (a) Have a system to safely alert the operator if an
257 autonomous technology failure is detected while the autonomous
258 technology is engaged. When an alert is given, the system must:



304644

576-03797-17

259 1. Require the operator to take control of the autonomous
260 vehicle; or

261 2. If the human operator does not, or is not able to, take
262 control of the autonomous vehicle, or if a human operator is not
263 physically present in the vehicle, be capable of bringing the
264 vehicle to a complete stop.

265 Section 6. Subsection (2) of section 335.074, Florida
266 Statutes, is amended to read:

267 335.074 Safety inspection of bridges.-

268 (2) At regular intervals as required by the Federal Highway
269 Administration not to exceed 2 years, each bridge on a public
270 transportation facility shall be inspected for structural
271 soundness and safety for the passage of traffic on such bridge.
272 The thoroughness with which bridges are to be inspected shall
273 depend on such factors as age, traffic characteristics, state of
274 maintenance, and known deficiencies. The governmental entity
275 having maintenance responsibility for any such bridge shall be
276 responsible for having inspections performed and reports
277 prepared in accordance with the provisions contained herein.

278 Section 7. Effective October 1, 2017, section 335.094,
279 Florida Statutes, is created to read:

280 335.094 Highway memorial markers; public safety awareness.-

281 (1) In recognition of the department's mission to provide a
282 safe transportation system, the Legislature intends that the
283 department allow the use of highway memorial markers at or near
284 the location of traffic-related fatalities on the State Highway
285 System to raise public awareness and remind motorists to drive
286 safely by memorializing people who have died as a result of a
287 traffic-related crash.



304644

576-03797-17

288 (2) The department shall establish a process, including any
289 forms deemed necessary by the department, for submitting
290 applications for installation of a memorial marker as authorized
291 in this section. Applications may be submitted to the department
292 by:

293 (a) A member of the decedent's family, which includes the
294 decedent's spouse; a child, parent, or sibling of the decedent,
295 whether biological, adopted, or step relation; and any lineal or
296 collateral descendant of the decedent; or

297 (b) Any individual who is responsible under the laws of
298 this state for the disposition of the unclaimed remains of the
299 decedent or for other matters relating to the interment or
300 memorialization of the decedent.

301 (3) The department shall establish criteria for the design
302 and fabrication of memorial markers, including, but not limited
303 to, marker components, fabrication material, and size.

304 (4)(a) The department may install a round aluminum sign
305 panel with white background and black letters uniformly
306 inscribed "Drive Safely, In Memory Of" followed by the
307 decedent's name at no charge to the applicant.

308 (b) Upon the request of the applicant and payment of a
309 reasonable fee set by the department to offset production costs,
310 memorial markers may incorporate the available emblems of belief
311 approved by the United States Department of Veterans Affairs
312 National Cemetery Administration. For purposes of this section,
313 an "emblem of belief" means an emblem that represents the
314 decedent's religious affiliation or sincerely held religious
315 belief system, or a sincerely held belief system that was
316 functionally equivalent to a religious belief system in the life



304644

576-03797-17

317 of the decedent. The religion or belief system represented by an
318 emblem need not be associated with or endorsed by a church,
319 group, or organized denomination. The term does not include
320 emblems, graphics, logos, or symbols that relate to social,
321 cultural, ethnic, civic, fraternal, trade, commercial,
322 political, professional, or military status.

323 (c) An applicant may request a new emblem of belief not
324 specifically approved by the United States Department of
325 Veterans Affairs National Cemetery Administration for
326 inscription on a memorial marker as follows:

327 1. The applicant must certify that the proposed new emblem
328 of belief represents the decedent's religious affiliation or
329 sincerely held religious belief system, or a sincerely held
330 belief system that was functionally equivalent to a religious
331 belief system in the life of the decedent.

332 2. In the absence of evidence to the contrary, the
333 department shall accept as genuine an applicant's statement of
334 the religious or functionally equivalent belief system of a
335 decedent.

336 (d) If the department determines that any application under
337 this section is incomplete, the department must notify the
338 applicant in writing of any missing information and must notify
339 the applicant in writing that no further action on the
340 application will be taken until the missing information is
341 provided.

342 (5) The department shall place a memorial marker for any
343 approved application at or near the location of the fatality in
344 a fashion that reduces driver distraction and positions the
345 marker as near the right-of-way line as possible.



304644

576-03797-17

346 (6) Memorial markers are intended to remind passing
347 motorists of the dangers of unsafe driving and are not intended
348 for visitation. The department shall remove a memorial marker if
349 the department determines the presence of the marker creates a
350 safety hazard. In such cases, the department shall post a notice
351 near where the marker was located indicating that the marker has
352 been removed and provide contact information for pickup of the
353 marker. The department shall store any removed markers for at
354 least 60 days. If after 60 days the memorial is not claimed, the
355 department may dispose of the marker as it deems necessary.

356 Section 8. Paragraph (c) of subsection (6) of section
357 337.11, Florida Statutes, is amended to read:

358 337.11 Contracting authority of department; bids; emergency
359 repairs, supplemental agreements, and change orders; combined
360 design and construction contracts; progress payments; records;
361 requirements of vehicle registration.-

362 (6)

363 (c) When the department determines that it is in the best
364 interest of the public for reasons of public concern, economy,
365 improved operations, or safety, and only for contracts for
366 construction and maintenance which do not exceed \$250,000 when
367 circumstances dictate rapid completion of the work, the
368 department may, ~~up to the amount of \$120,000,~~ enter into
369 ~~contracts for construction and maintenance~~ without advertising
370 and receiving competitive bids. The department may enter into
371 such contracts only upon a determination that the work is
372 necessary for one of the following reasons:

373 1. To ensure timely completion of projects or avoidance of
374 undue delay for other projects;



304644

576-03797-17

375 2. To accomplish minor repairs or construction and
376 maintenance activities for which time is of the essence and for
377 which significant cost savings would occur; or

378 3. To accomplish nonemergency work necessary to ensure
379 avoidance of adverse conditions that affect the safe and
380 efficient flow of traffic.

381
382 The department shall make a good faith effort to obtain two or
383 more quotes, if available, from qualified contractors before
384 entering into any contract. The department shall give
385 consideration to disadvantaged business enterprise
386 participation. However, when the work exists within the limits
387 of an existing contract, the department shall make a good faith
388 effort to negotiate and enter into a contract with the prime
389 contractor on the existing contract.

390 Section 9. Subsection (5) is added to section 338.227,
391 Florida Statutes, to read:

392 338.227 Turnpike revenue bonds.-

393 (5) Notwithstanding s. 215.82, bonds issued pursuant to
394 this section are not required to be validated pursuant to
395 chapter 75 but may be validated at the option of the Division of
396 Bond Finance. Any complaint about such validation must be filed
397 in the circuit court of the county in which the seat of state
398 government is situated, and the clerk shall publish the notice
399 as required by s. 75.06 only in the county in which the
400 complaint is filed. The complaint and order of the circuit court
401 must be served on the state attorney of the circuit in which the
402 action is pending.

403 Section 10. Paragraph (e) of subsection (7) of section



304644

576-03797-17

339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(e) Notwithstanding paragraphs (d), ~~and (g), and (h)~~ and ss. 216.177(2) and 216.351, the secretary may request the Executive Office of the Governor to amend the adopted work program when an emergency exists, as defined in s. 252.34, and the emergency relates to the repair or rehabilitation of any state transportation facility. The Executive Office of the Governor may approve the amendment to the adopted work program and amend that portion of the department's approved budget if a delay incident to the notification requirements in paragraph (d) would be detrimental to the interests of the state. However, the department shall immediately notify the parties specified in paragraph (d) and provide such parties written justification for the emergency action within 7 days after approval by the Executive Office of the Governor of the amendment to the adopted work program and the department's budget. The adopted work program may not be amended under this subsection without certification by the comptroller of the department that there are sufficient funds available pursuant to the 36-month cash forecast and applicable statutes.

Section 11. Section 339.2405, Florida Statutes, is amended to read:

339.2405 Florida Highway Beautification Grant Program Council.—

(1) There is created within the Department of Transportation the Florida Highway Beautification Grant Program



304644

576-03797-17

~~for the purpose of awarding grants to local governmental entities for beautification of roads on the State Highway System as provided in subsections (3) and (4). The department shall Council. It shall consist of seven members appointed by the Governor. All appointed members must be residents of this state. One member must be a licensed landscape architect, one member must be a representative of the Florida Federation of Garden Clubs, Inc., one member must be a representative of the Florida Nurserymen and Growers Association, one member must be a representative of the department as designated by the head of the department, one member must be a representative of the Department of Agriculture and Consumer Services, and two members must be private citizens. The members of the council shall serve at the pleasure of the Governor.~~

~~(2) Each chair shall be selected by the council members and shall serve a 2-year term.~~

~~(3) The council shall meet no less than semiannually at the call of the chair or, in the chair's absence or incapacity, at the call of the head of the department. Four members shall constitute a quorum for the purpose of exercising all of the powers of the council. A vote of the majority of the members present shall be sufficient for all actions of the council.~~

~~(4) The council members shall serve without pay but shall be entitled to per diem and travel expenses pursuant to s. 112.061.~~

~~(5) A member of the council may not participate in any discussion or decision to recommend grants to any qualified local government with which the member is associated as a member of the governing body or as an employee or with which the member~~



304644

576-03797-17

462 ~~has entered into a contractual arrangement.~~

463 ~~(6) The council may prescribe, amend, and repeal bylaws~~
464 ~~governing the manner in which the business of the council is~~
465 ~~conducted.~~

466 ~~(7)(a) The duties of the council shall be to:~~

467 ~~(a)1-~~ Provide information to local governments and local
468 highway beautification councils regarding the state highway
469 beautification grants program.

470 ~~(b)2-~~ Accept grant requests from local governments.

471 ~~(c)3-~~ Review grant requests for compliance with department
472 ~~council~~ rules.

473 ~~(d)4-~~ Establish rules for evaluating and prioritizing the
474 grant requests. The rules must include, but are not limited to,
475 an examination of each grant's aesthetic value, cost-
476 effectiveness, level of local support, feasibility of
477 installation and maintenance, and compliance with state and
478 federal regulations. Rules adopted by the department council
479 which it uses to evaluate grant applications must take into
480 consideration the contributions made by the highway
481 beautification project in preventing litter.

482 ~~(e)5-~~ Maintain a prioritized list of approved grant
483 requests. The list must include recommended funding levels for
484 each request and, if staged implementation is appropriate,
485 funding requirements for each stage shall be provided.

486 ~~6. Assess the feasibility of planting and maintaining~~
487 ~~indigenous wildflowers and plants, instead of sod groundcovers,~~
488 ~~along the rights-of-way of state roads and highways. In making~~
489 ~~such assessment, the council shall utilize data from other~~
490 ~~states which include indigenous wildflower and plant species in~~



304644

576-03797-17

491 ~~their highway vegetative management systems.~~

492 ~~(b) The council may, at the request of the head of the~~
493 ~~department, review and make recommendations on any other highway~~
494 ~~beautification matters relating to the State Highway System.~~

495 ~~(8) The head of the department shall provide from existing~~
496 ~~personnel such staff support services to the council as are~~
497 ~~necessary to enable the council to fulfill its duties and~~
498 ~~responsibilities.~~

499 ~~(2)(9)~~ Local highway beautification councils may be created
500 by local governmental entities or by the Legislature. Prior to
501 being submitted to the department council, a grant request must
502 be approved by the local government or governments of the area
503 in which the project is located.

504 ~~(3)(10) The head of the department, after receiving~~
505 ~~recommendations from the council,~~ shall award grants to local
506 governmental entities that have submitted grant requests for
507 beautification of roads on the State Highway System and which
508 requests are on the ~~council's~~ approved list. The grants shall be
509 awarded in the order they appear on the ~~council's~~ prioritized
510 list and in accordance with available funding.

511 ~~(4)(11)~~ State highway beautification grants may be
512 requested only for projects to beautify through landscaping
513 roads on the State Highway System. The grant request shall
514 identify all costs associated with the project, including
515 sprinkler systems, plant materials, equipment, and labor. A
516 grant shall provide for the costs of purchase and installation
517 of a sprinkler system, the cost of plant materials and
518 fertilizer, and may provide for the costs for labor associated
519 with the installation of the plantings. Each local government



304644

576-03797-17

520 that receives a grant ~~is shall be~~ responsible for any costs for
521 water, for the maintenance of the sprinkler system, for the
522 maintenance of the landscaped areas in accordance with a
523 maintenance agreement with the department, and, except as
524 otherwise provided in the grant, for any costs for labor
525 associated with the installation of the plantings. The
526 department may provide, by contract, services to maintain such
527 landscaping at a level not to exceed the cost of routine
528 maintenance of an equivalent unlandscaped area.

529 ~~(12) The council shall annually submit to the head of the~~
530 ~~Department of Transportation a proposal recommending the level~~
531 ~~of grant funding.~~

532 Section 12. Section 343.52, Florida Statutes, is reordered
533 and amended to read:

534 343.52 Definitions.—As used in this part, the term:

535 (2)(1) "Authority" means the South Florida Regional
536 Transportation Authority.

537 (3)(2) "Board" means the governing body of the authority.

538 (4) "Department" means the Department of Transportation.

539 (1)(3) "Area served" means Miami-Dade, Broward, and Palm
540 Beach Counties. However, this area may be expanded by mutual
541 consent of the authority and the board of county commissioners
542 of Monroe County. The authority may not expand into any
543 additional counties without the department's prior written
544 approval.

545 (8)(4) "Transit system" means a system used for the
546 transportation of people and goods by means of, without
547 limitation, a street railway, an elevated railway having a fixed
548 guideway, a commuter railroad, a subway, motor vehicles, or



304644

576-03797-17

549 motor buses, and includes a complete system of tracks, stations,
550 and rolling stock necessary to effectuate passenger service to
551 or from the surrounding regional municipalities.

552 (7)(5) "Transit facilities" means property, avenues of
553 access, equipment, or buildings built and installed in Miami-
554 Dade, Broward, and Palm Beach Counties which are required to
555 support a transit system.

556 (6) "Member" means the individuals constituting the board.

557 (5)(7) "Feeder transit services" means a transit system
558 that transports passengers to or from stations within or across
559 counties.

560 Section 13. Present subsections (4) and (5) of section
561 343.54, Florida Statutes, are redesignated as subsections (5)
562 and (6), respectively, and a new subsection (4) is added to that
563 section, to read:

564 343.54 Powers and duties.—

565 (4) Notwithstanding any other provision of this part, the
566 authority may not enter into, extend, or renew any contract or
567 other agreement under this part without the department's prior
568 review and written approval of the authority's proposed
569 expenditures if such contract or agreement may be funded, in
570 whole or in part, with funds provided by the department.

571 Section 14. Paragraph (c) of subsection (4) of section
572 343.58, Florida Statutes, is amended to read:

573 343.58 County funding for the South Florida Regional
574 Transportation Authority.—

575 (4) Notwithstanding any other provision of law to the
576 contrary and effective July 1, 2010, until as provided in
577 paragraph (d), the department shall transfer annually from the



304644

576-03797-17

578 State Transportation Trust Fund to the South Florida Regional
579 Transportation Authority the amounts specified in subparagraph
580 (a)1. or subparagraph (a)2.
581 (c)1. Funds provided to the authority by the department
582 under this subsection constitute state financial assistance
583 provided to a nonstate entity to carry out a state project
584 subject to the provisions of ss. 215.97 and 215.971. The
585 department shall provide the funds in accordance with the terms
586 of a written agreement to be entered into between the authority
587 and the department which shall provide for department review,
588 approval and audit of authority expenditure of such funds, and
589 shall include such other provisions as are required by
590 applicable law. The department is specifically authorized to
591 agree to advance the authority one-fourth of the total funding
592 provided under this subsection for a state fiscal year at the
593 beginning of each state fiscal year, with monthly payments over
594 the fiscal year on a reimbursement basis as supported by
595 invoices and such additional documentation and information as
596 the department may reasonably require, and a reconciliation of
597 the advance against remaining invoices in the last quarter of
598 the fiscal year may not be committed by the authority without
599 the approval of the department, which may not be unreasonably
600 withheld. At least 90 days before advertising any procurement or
601 renewing any existing contract that will rely on state funds for
602 payment, the authority shall notify the department of the
603 proposed procurement or renewal and the proposed terms thereof.
604 If the department, within 60 days after receipt of notice,
605 objects in writing to the proposed procurement or renewal,
606 specifying its reasons for objection, the authority may not



304644

576-03797-17

607 ~~proceed with the proposed procurement or renewal. Failure of the~~
608 ~~department to object in writing within 60 days after notice~~
609 ~~shall be deemed consent. This requirement does not impair or~~
610 ~~cause the authority to cancel contracts that exist as of June~~
611 ~~30, 2012.~~

612 2. To enable the department to evaluate the authority's
613 proposed uses of state funds, the authority shall annually
614 provide the department with its proposed budget for the
615 following authority fiscal year and shall promptly provide the
616 department with any additional documentation or information
617 required by the department for its evaluation of the proposed
618 uses of the state funds.

619 Section 15. Subsection (2) of section 215.82, Florida
620 Statutes, is amended to read:

621 215.82 Validation; when required.—

622 (2) Any bonds issued pursuant to this act which are
623 validated shall be validated in the manner provided by chapter
624 75. In actions to validate bonds to be issued in the name of the
625 State Board of Education under s. 9(a) and (d), Art. XII of the
626 State Constitution and bonds to be issued pursuant to chapter
627 259, the Land Conservation Program, the complaint shall be filed
628 in the circuit court of the county where the seat of state
629 government is situated, the notice required to be published by
630 s. 75.06 shall be published only in the county where the
631 complaint is filed, and the complaint and order of the circuit
632 court shall be served only on the state attorney of the circuit
633 in which the action is pending. In any action to validate bonds
634 issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1),
635 Art. XII of the State Constitution or issued pursuant to s.



304644

576-03797-17

636 215.605 ~~or s. 338.227~~, the complaint shall be filed in the
637 circuit court of the county where the seat of state government
638 is situated, the notice required to be published by s. 75.06
639 shall be published in a newspaper of general circulation in the
640 county where the complaint is filed and in two other newspapers
641 of general circulation in the state, and the complaint and order
642 of the circuit court shall be served only on the state attorney
643 of the circuit in which the action is pending; provided,
644 however, that if publication of notice pursuant to this section
645 would require publication in more newspapers than would
646 publication pursuant to s. 75.06, such publication shall be made
647 pursuant to s. 75.06.

648 Section 16. Paragraph (d) of subsection (2) of section
649 343.53, Florida Statutes, is amended to read:

650 343.53 South Florida Regional Transportation Authority.—

651 (2) The governing board of the authority shall consist of
652 10 voting members, as follows:

653 (d) If the authority's service area is expanded pursuant to
654 s. 343.54(6) ~~s. 343.54(5)~~, the county containing the new service
655 area shall have two members appointed to the board as follows:

656 1. The county commission of the county shall elect a
657 commissioner as that commission's representative on the board.
658 The commissioner must be a member of the county commission when
659 elected and for the full extent of his or her term.

660 2. The Governor shall appoint a citizen member to the board
661 who is not a member of the county commission but who is a
662 resident and a qualified elector of that county.

663 Section 17. Section 427.011, Florida Statutes, is reordered
664 and amended to read:



304644

576-03797-17

665 427.011 Definitions.—For the purposes of ss. 427.011-
666 427.017:

667 ~~(9)(1)~~ "Transportation disadvantaged" means those persons
668 who because of physical or mental disability, income status, or
669 age are unable to transport themselves or to purchase
670 transportation and are, therefore, dependent upon others to
671 obtain access to health care, employment, education, shopping,
672 social activities, or other life-sustaining activities, or
673 children who are handicapped or high-risk or at-risk as defined
674 in s. 411.202.

675 ~~(5)(2)~~ "Metropolitan planning organization" means the
676 organization responsible for carrying out transportation
677 planning and programming in accordance with the provisions of 23
678 U.S.C. s. 134, as provided in 23 U.S.C. s. 104(f)(3).

679 ~~(1)(3)~~ "Agency" means an official, officer, commission,
680 authority, council, committee, department, division, bureau,
681 board, section, or any other unit or entity of the state or of a
682 city, town, municipality, county, or other local governing body
683 or a private nonprofit transportation service-providing agency.

684 ~~(11)(4)~~ "Transportation improvement program" means a staged
685 multiyear program of transportation improvements, including an
686 annual element, which is developed by a metropolitan planning
687 organization or designated official planning agency.

688 ~~(2)(5)~~ "Community transportation coordinator" means a
689 transportation entity recommended by a metropolitan planning
690 organization, or by the appropriate designated official planning
691 agency as provided for in ss. 427.011-427.017 in an area outside
692 the purview of a metropolitan planning organization, to ensure
693 that coordinated transportation services are provided to the



304644

576-03797-17

694 transportation disadvantaged population in a designated service
695 area.

696 ~~(12)~~(6) "Transportation operator" means one or more public,
697 private for-profit, or private nonprofit entities engaged by the
698 community transportation coordinator to provide service to
699 transportation disadvantaged persons pursuant to a coordinated
700 system service plan.

701 ~~(3)~~(7) "Coordinating board" means an advisory entity in
702 each designated service area composed of representatives
703 appointed by the metropolitan planning organization or
704 designated official planning agency, to provide assistance to
705 the community transportation coordinator relative to the
706 coordination of transportation services.

707 (8) "Purchasing agency" means a department or agency whose
708 head is an ex officio, nonvoting adviser to the commission, or
709 an agency that purchases transportation services for the
710 transportation disadvantaged.

711 ~~(7)~~(9) "Paratransit" means those elements of public transit
712 which provide service between specific origins and destinations
713 selected by the individual user with such service being provided
714 at a time that is agreed upon by the user and provider of the
715 service. Paratransit service is provided by taxis, limousines,
716 "dial-a-ride," buses, transportation network companies, and
717 other demand-responsive operations that are characterized by
718 their nonscheduled, nonfixed route nature.

719 (10) "Transportation disadvantaged funds" means any local
720 government, state, or available federal funds that are for the
721 transportation of the transportation disadvantaged. Such funds
722 may include, but are not limited to, funds for planning,



304644

576-03797-17

723 Medicaid transportation, administration, operation, procurement,
724 and maintenance of vehicles or equipment and capital
725 investments. Transportation disadvantaged funds do not include
726 funds for the transportation of children to public schools.

727 ~~(4)~~(11) "Coordination" means the arrangement for the
728 provision of transportation services to the transportation
729 disadvantaged in a manner that is cost-effective, efficient, and
730 reduces fragmentation and duplication of services.

731 ~~(6)~~(12) "Nonsponsored transportation disadvantaged
732 services" means transportation disadvantaged services that are
733 not sponsored or subsidized by any funding source other than the
734 Transportation Disadvantaged Trust Fund.

735 Section 18. The Secretary of Transportation may enroll the
736 State of Florida in any federal pilot program or project for the
737 collection and study of data for the review of federal or state
738 roadway safety, infrastructure sustainability, congestion
739 mitigation, transportation system efficiency, autonomous vehicle
740 technology, or capacity challenges.

741 Section 19. Except as otherwise provided in this act, this
742 act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1118

INTRODUCER: Transportation Committee and Senator Gainer and others

SUBJECT: Transportation

DATE: April 24, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller	TR	Fav/CS
2. Pitts	Pitts	ATD	Recommend: Fav/CS
3. Pitts	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

The bill is a compilation of the Department of Transportation's (FDOT) 2017 Legislative Package. Specifically, the bill:

- Increases the allowable gross vehicle weight for vehicles using natural-gas fueling systems by up to 2,000 pounds under certain conditions, resulting in a reduced overweight penalty and avoiding a potential loss of federal funds;
- Aligns state and federal law by mandating bridge inspections at regular intervals as required by the Federal Highway Administration, as opposed to intervals not exceeding two years, resulting in compliance with revised national bridge inspection requirements and avoiding a potential but likely insignificant diversion of federal funds;
- Increases the current \$120,000 cap on "fast response" contracts to \$250,000 to account for increased construction costs due to inflation;
- Allows turnpike bonds to be validated at the option of the Division of Bond Finance and limits the location of publication of certain related notices to Leon County;
- Repeals the Florida Highway Beautification Council and creates the Florida Highway Beautification Grant Program within the FDOT;
- Defines "department" to mean the FDOT for purposes of Part II of ch. 343, F.S., relating to the South Florida Regional Transportation Authority (SFRTA);
- Prohibits the SFRTA from entering into, extending, or renewing any contract without the FDOT's prior review and written approval of the proposed expenditures if such contract may be funded with FDOT-provided funds;

- Prohibits the SFRTA from committing FDOT-provided funds without the FDOT's prior review and written approval of the authority's expenditures and requires the SFRTA to promptly provide the FDOT with any additional documentation or information necessary to evaluate the SFRTA's proposed uses of state funds.
- Prohibits the FDOT from providing funding to the SFRTA until the authority withdraws, cancels, or otherwise terminates a specified Notice of Intent of Contract Award; and requires the SFRTA, before entering into a new contract for the same services, to obtain the FDOT's written approval of all terms and conditions of the new procurement and contract.
- Deletes and revises cross-references to conform to changes made in the act.
- Provides the bill take effect on July 1, 2017

The bill's provisions have both indeterminate negative and positive fiscal impacts on state funds, of which combined are neutral. See Section V., "Fiscal Impact Statement," for details.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Natural Gas-Fueled Vehicle Weight (Section 1)

Present Situation:

Motor Vehicle Weights and Overweight Penalties

The rate of damage to roads and bridges generally increases as vehicle weight increases, resulting in higher maintenance and replacement costs and potentially creating unsafe conditions. Maximum legal vehicle weights are established for all public roads and bridges and allow compliant vehicles to travel most public highways of the state without causing excessive road damage or bridge failures. However, some roads and bridges have lower weight limits due to their age, condition, or design, and these facilities have posted weight limits; *i.e.*, their lower weight limits are identified through signage at the facility. Vehicles exceeding the maximum weight limits on a facility, including posted facilities, are presumed to have damaged the highways of the state and are subject to fines.¹

Gross vehicle weight is the total weight of a vehicle (or combination of vehicles) and any cargo carried by the vehicle.² Federal and state laws generally provide that gross vehicle weight may not exceed 80,000 pounds for both the interstate and non-interstate highway system,³ or the maximum allowed by the Federal Bridge Formula.⁴ In Florida, the maximum weight limit is

¹ See ss. 316.545 and 316.555, F.S.

² Section 316.003(27), F.S.

³ See 23 U.S.C. 127 (2015) and s. 316.535, F.S.

⁴ This formula is used to determine the maximum allowable weight that any set of axles on a motor vehicle may carry on the Interstate Highway System. For further detail, see the Federal Highway Administration website: http://ops.fhwa.dot.gov/freight/sw/brdgc/calc/calc_page.htm. (Last visited January 20, 2017.)

22,000 pounds on a single axle, and 44,000 pounds on a tandem axle.⁵ These limits do not apply to those vehicles and loads that cannot be easily dismantled or divided (*i.e.*, “non-divisible”), or to other vehicles exceeding the maximum weight limits, if a special permit has been issued in accordance with applicable state laws.⁶

However, the vehicle’s number of axles and the distance between the axles in part controls a vehicle’s maximum allowable weight. Thus, a vehicle’s maximum allowable gross weight may be reduced because the concentration of weight on a particular axle may reach unacceptable limits. For example, pavement and bridge stress is greater for a 30-foot truck with two axles and a gross vehicle weight of 50,000 pounds than a 54-foot tractor-trailer combination of the same weight because the tractor-trailer distributes the load over a greater area. Therefore, the 30-foot truck will have a lower maximum allowable weight.

For weight violations, including violations of weight criteria contained in a special permit, the penalty is as established in s. 316.545(3)(a), F.S., *i.e.*, \$10 for 200 pounds or less and 5 cents per pound for each pound over 200 pounds. Unlawful axle weights are penalized at \$10 for the first 600 pounds, if the gross weight of the vehicle (or vehicle combination) does not exceed the maximum allowable gross weight.⁷

For each violation of the operational or safety restrictions established in a special permit, *e.g.*, using a restricted bridge, the penalty may be as high as \$1,000. However, the cumulative total for multiple violations may not exceed \$1,000.⁸

These penalties are deposited into the State Transportation Trust Fund and used for roadway maintenance and repair.⁹

Cargo Capacity of Vehicles Fueled by Natural Gas Compared to Gasoline or Diesel-Fueled Vehicles

According to the U.S. Department of Energy, about 150,000 vehicles in this country are powered by natural gas, many of which are heavy-duty vehicles.¹⁰ Natural gas vehicles (NGVs) are reported to be similar to gasoline or diesel-fueled vehicles with respect to power, acceleration, and cruising speed; and the use of natural gas as fuel provides additional advantages, such as its domestic availability, its relative low cost, and lower emissions.¹¹ However, these advantages may be offset by displacement of cargo capacity, due to the heavier weight of NGV fueling systems relative to gasoline or diesel systems.¹²

⁵ See the Florida Highway Patrol *Commercial Motor Vehicle Manual*, July 2016, at p. 8, available at: <https://www.flhsmv.gov/fhp/CVE/2015truckingmanual.pdf>. (Last visited January 26, 2017.)

⁶ 23 U.S.C. 127(a) (2015) and s. 316.550, F.S...

⁷ Section 316.545(3)(a), F.S.

⁸ 316.550(10)(c), F.S.

⁹ Section 316.545(6), F.S.

¹⁰ See the U.S. Department of Energy Alternative Fuels Data Center website available at: http://www.afdc.energy.gov/vehicles/natural_gas.html. (Last visited November 18, 2016.)

¹¹ *Id.* at: http://www.afdc.energy.gov/fuels/natural_gas_benefits.html. (Last visited November 18, 2016.)

¹² *Id.* “The driving range of NGVs is generally less than that of comparable conventional vehicles because of the lower energy density of natural gas. Extra storage tanks can increase range, but the additional weight may displace cargo capacity.”

Fast Act Natural Gas Vehicle Weight Allowance

The Fixing America's Surface Transportation Act (FAST Act), which authorized Federal surface transportation programs for fiscal years 2016-2020, contained a number of incentives for natural gas. In apparent recognition of the potential displacement of cargo capacity due to the heavier weight of NGVs, the FAST Act authorized a vehicle, if operated by an engine fueled primarily¹³ by natural gas, to exceed any (single axle, tandem axle and bridge formula) weight limit (up to a maximum gross vehicle weight of 82,000 pounds) by an amount that is equal to the difference between:

- The weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle, and
- The weight of a comparable diesel tank and fueling system.¹⁴

The Federal Highway Administration (FHWA) has advised states to review state statutes, regulations, and procedures, as well as load rating and posting calculations and enforcement practices, for necessary updating.¹⁵ Further, the FHWA noted that while the federally increased weight allowance does not preempt a state from enforcing *state* weight limits on all highways, it does “prevent[] the FHWA from imposing funding sanctions if a state authorizes the additional weight limit on its Interstate system.”¹⁶

Florida law has long adhered to the general maximum weight limits contained in the Federal law,¹⁷ and the FDOT issues special permits for vehicles transporting non-divisible loads and for other vehicles exceeding maximum weight limits.¹⁸ Florida law currently grants a 500-pound weight allowance for idle reduction technology consistent with federal law, but does not authorize the additional weight for NGVs allowed in the FAST Act.¹⁹

FDOT Permitting of NGVs

In response to the FAST Act, the FDOT performed an assessment to determine if any bridges, other than those currently posted for weight, would require posting because of the additional weight allowance for NGVs authorized in the Act. The FDOT advises that the study concluded that the additional weight of NGVs would not require bridges to be re-load rated or posted.²⁰ The FDOT also developed a permit process in June of 2016 to allow the operation of NGVs at the new Federal weight limits, but no permits were issued, perhaps because the industry is unaware of the need for such a permit.²¹ As a result, the FDOT estimates that approximately 292

¹³ Some NGVs are fueled solely by natural gas, some are bi-fueled with two separate fueling systems that enable them to run on either natural gas or gasoline, and some are dual-fueled. Dual-fueled vehicles “are traditionally limited to heavy-duty application, have fuel systems that run on natural gas, and use diesel fuel for ignition assistance.” *Supra* note 8.

¹⁴ P.L. 114-94, s. 1410 (2015). *See also* the Federal Highway Administration Memorandum dated February 24, 2016, *Information: Fixing America's Surface Transportation Act (FAST Act) Truck Size and Weight Provisions*. (On file in the Senate Transportation Committee.)

¹⁵ *Id.*, Memorandum Question and Answer 16.

¹⁶ *Id.*, Question and Answer 14.

¹⁷ *See* s. 316.535, F.S.

¹⁸ *See* s. 316.550, F.S.

¹⁹ Section 316.545(3)(b), F.S.

²⁰ *See* the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

²¹ *Id.*

citations²² have been issued, totaling \$375.00 in fines, 15 of which have been contested before the Commercial Motor Vehicle Review Board.²³ The FDOT advises no relief was granted for any of the 15 contested citations.²⁴

Effect of Proposed Changes:

Section 1 amends s. 316.545(3), F.S., to provide for a specified reduction in the actual gross weight of an NGV, when calculating the penalty for exceeding maximum weight limits, so long as the actual gross weight of the vehicle does not exceed 82,000 pounds, exclusive of the existing 500-pound weight allowance for idle reduction technology. The bill will create greater uniformity between federal and state law, which is especially important for truck drivers doing interstate business, and avoids a potential withholding of federal funds.

If an NGV is found to be overweight, then the penalty will be calculated by reducing the actual gross vehicle weight by the certified difference in weight between the natural gas tank and fueling system carried by that vehicle, and a comparable diesel tank and fueling system, before applying the currently applicable penalty. If the actual gross weight of the NGV exceeds 80,000 pounds plus the certified weight difference, a penalty of \$.05 per pound of excess weight could be assessed.

If the NGV is also equipped with idle reduction technology, the penalty will be calculated by reducing the actual gross vehicle weight by the certified difference in weight between the natural gas tank and fueling system carried by that vehicle and a comparable diesel tank and fueling system, and by an additional 500 pounds. If the actual gross weight of the NGV with idle reduction technology exceeds 80,500 pounds plus the certified weight difference, a penalty of \$.05 per pound of excess weight could be assessed.

The bill contains a proof requirement; *i.e.*, the vehicle operator must present a written certification that identifies the weight of the natural gas tank and fueling system, and the difference in weight of a comparable diesel tank and fueling system, upon request of a weight inspector or a law enforcement officer. The certification must originate from the vehicle manufacturer or the installer of the natural gas tank and fueling system.

The bill excludes vehicles described in s. 316.535(6), F.S., from qualifying for the reduced calculation. These vehicles, typically called straight trucks, include dump trucks, concrete mixing trucks, trucks engaged in waste collection and disposal, and fuel oil and gasoline trucks designed and constructed for special type work. The cargo unit and the power unit on these trucks sit on the same frame,²⁵ meaning that the concentration of weight is greater than, for example, a combination vehicle with an axle configuration that distributes the weight over a greater area. These vehicles continue to be limited to a gross weight of 70,000 pounds.

²² The FDOT notes this estimate is based on a search for companies that utilize NGVs and received an overweight citation in the last year. Because the citation form is not designed to specify this particular infraction, some of the 292 cases may not be related to the FAST Act. *Id.*

²³ Section 316.545(7), F.S., establishes the Board within the FDOT and authorizes the Board to review any penalty imposed under chapter 316, F.S.

²⁴ *Supra* note 11.

²⁵ See s. 316.003(76), F.S.

Bridge Inspection Frequency (Section 2)

Present Situation:

National Bridge Inspection Standards

Federal law requires the U.S.D.O.T. Secretary, in consultation with states and Federal agencies having jurisdiction, to inventory all highway bridges on public roads; to classify the bridges according to serviceability, safety, and essentiality for public use; and to assign each bridge a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.²⁶ The Federal-aid Highway Act of 1968 required the Secretary to develop regulations establishing national bridge inspection standards with the primary purpose of locating and evaluating existing bridge deficiencies to ensure the safety of the traveling public. The current standards are specified in 23 C.F.R. 650, Subpart C, and apply to all highway bridges located on all public roads.

States are required by the standards to inspect all highway bridges located on public roads that are fully or partially located within the state, except for bridges owned by Federal agencies. Inspections are to be conducted in accordance with the American Association of State Highway and Transportation Officials *Manual for Condition Evaluation of Bridges*, which “serves as a standard and provides uniformity in the procedures and policies for determining the physical condition, maintenance needs, and load capacity of the Nation’s highway bridges.”²⁷

National Inspection Frequency Revisions

Before 2005, with specific reference to frequency of bridge inspections, the national standards generally required each bridge to be inspected at regular intervals not to exceed two years but recognized that certain bridges require inspection at less than two-year intervals. Those earlier standards also recognized that the maximum inspection interval for certain bridges could be appropriately increased in cases in which past inspection reports and favorable experience and analysis justified an increase. States were authorized to submit a detailed proposal and supporting data for approval of an increased interval, but in no case could the maximum time period between inspections exceed four years.

Changes to the standards, effective January 13, 2005, among other items, included expansion of the bridge inspection frequency provisions, such that the FDOT is required to:

- Inspect each bridge at regular intervals not exceeding 24 months for routine inspections;²⁸ establish criteria to determine the level and frequency of inspection of bridges at less than 24-month intervals, considering such factors as age, traffic characteristics, and known deficiencies; and seek written approval from the Federal Highway Administration (FHWA) to inspect certain bridges at greater than 24-month intervals if past inspection findings and analyses justify an increased interval.

²⁶ See 23 U.S.C. 144 (2015).

²⁷ *Federal Register*, Vol. 74, no. 246, Thursday, December 24, 2009, at 68378.

²⁸ “Routine inspection” is defined as a regularly scheduled inspection consisting of observations and/or measurements needed to determine the physical and functional condition of the bridge, to identify any changes from initial or previously recorded conditions, and to ensure that the structure continues to satisfy present service requirements. 23 C.F.R. 650.305 (4-1-16).

- Inspect underwater structural elements at regular intervals not exceeding 60 months; establish criteria to determine the level and frequency of inspection of these elements at less than 60-month intervals, considering such factors as construction material, environment, age, scour characteristics, condition rating from past inspections, and known deficiencies; and seek written approval from the FHWA to inspect certain underwater structural elements at greater than 60-month intervals, but not exceeding 72 months, if past inspection findings and analysis justify an increased interval.
- Inspect fracture critical members (FCMs)²⁹ at intervals not to exceed 24 months; establish criteria to determine the level and frequency of inspection of FCMs at less than 24-month intervals, considering such factors as age, traffic characteristics, and known deficiencies; and establish criteria to determine the level and frequency of damage, in-depth, and special inspections.³⁰

Compliance Reviews

States are subject to an annual review for compliance with the national standards using 23 metrics³¹ that contain criteria for assessing a state's compliance with each metric. A state is notified of any finding of noncompliance and provided an opportunity for correction. If a state ultimately remains noncompliant, the penalty is that the state must dedicate certain funds that would otherwise be available for projects to correcting the noncompliance.³² The FDOT advises it has received no such notification.³³

Florida Bridge Inspection Law

The existing Florida Statutes do not comply with the described national bridge inspection frequency provisions. Currently, Florida law requires the governmental entity having maintenance responsibility for each bridge on a public transportation facility to inspect such bridges at regular intervals not to exceed two years.^{34, 35}

The FDOT does have already-established criteria for routine inspections at intervals not exceeding 24 months, and for certain other inspection levels and frequencies for bridges determined to require inspection at less than 24-month intervals.³⁶ However, because of the existing state mandate for inspection of each bridge at intervals *not exceeding* 2 years, the FDOT

²⁹ "Fracture critical member" is defined as a member in tension, or with a tension element, whose failure would probably cause a portion of or the entire bridge to collapse. A "fracture critical member inspection" is defined as a hands-on inspection of a fracture critical member or member components that may include visual and other non-destructive evaluation. *Id.*

³⁰ "Damage inspection" is defined as an unscheduled inspection to assess structural damage resulting from environmental factors or human actions. "In-depth inspection" is defined as a close-up inspection of one or more members above or below the water level to identify any deficiencies not readily detectable using routine inspection procedures, with hands-on inspection being necessary at some locations. "Special inspection" is defined as an inspection scheduled at the discretion of the bridge owner, used to monitor a particular known or suspected deficiency. *Id.*

³¹ See the *Federal Register*, Vol. 79, No. 91, Monday, May 12, 2014, for a listing of each metric and citations to their locations in the Code of Federal Regulations, as well as an overview of the compliance review process.

³² These are National Highway Performance Program funds and Surface Transportation Block Grant Program funds. See 23 U.S.C. 144(h)(5) (2015).

³³ Telephone conversation with the FDOT staff, January 26, 2017.

³⁴ Section 335.074(2), F.S.

³⁵ Section 335.074(3)(b), F.S., requires each governmental entity to report its inspections to the FDOT.

³⁶ See the FDOT Procedure 850-010-030-j, section 3.2. (Copy on file in the Senate Transportation Committee.)

has not developed nor sought written approval from the FHWA for the inspection intervals, criteria, and FHWA approvals required by the revised national standards.

Effect of Proposed Changes:

Section 2 amends s. 335.074(2), F.S., to require bridge inspections at regular intervals *as required by the Federal Highway Administration*, rather than at intervals not exceeding 2 years. This revision will allow the FDOT to seek FHWA approval of its existing procedures, develop and establish the criteria for the required increased inspection intervals, and obtain the FHWA's approval, consistent with the revised national standards. A potential but likely insignificant³⁷ diversion of federal funds from actual projects to noncompliance correction is avoided.

Fast Response Contracts Cap (Section 3)

Present Situation:

FDOT Contracting Authority

Generally, the FDOT is authorized to enter into contracts for the construction and maintenance of all roads designated as part of the State Highway System, the State Park Road System, or of any roads placed under its supervision by law. This authorization includes construction and maintenance contracts for rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities and associated buildings used in connection with such facilities. With certain exceptions, these contracts must be advertised for competitive bidding, and such contracts generally must be awarded to the lowest responsible bidder.³⁸

Required Surety Bond

A successful bidder on a construction or maintenance contract is required to post a surety bond in an amount equal to the awarded contract price with certain exceptions. One exception is the FDOT's authorization to waive all or a portion of the bond requirement if the contract price is \$250,000 or less, and if the FDOT determines that the project is of a noncritical nature and that nonperformance will not endanger public health, safety, or property.³⁹ With respect to construction contracts, the FDOT may waive all or a portion of a bond for contracts of \$150,000 or less if the FDOT makes the same determination.⁴⁰

Fast Response Contracting Cap

One of the exceptions to the competitive bidding requirement currently authorizes the FDOT, under certain conditions, to enter into construction and maintenance contracts, up to the amount of \$120,000, without advertising and receiving competitive bids. The FDOT may exercise this authority when the FDOT determines that doing so is in the best interest of the public for reasons of public concern, economy, or improved operations or safety, and only when circumstances dictate rapid completion of the work:

- To ensure timely completion of projects or avoidance of undue delay for other projects;

³⁷ Telephone conversation with the FDOT staff February 1, 2017.

³⁸ Section 337.11, F.S.

³⁹ Section 337.18(1), F.S.

⁴⁰ Section 337.14(2), F.S.

- To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or
- To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.⁴¹

The FDOT is required to make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract and give consideration to disadvantaged business enterprise participation. If, however, the work exists within the limits of an existing contract, the FDOT must make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract. These contracts fund projects such as sinkhole repairs that protect roadways and other infrastructure, traffic railing and guardrail repairs needed to protect the safety of the traveling public, and drainage and inlet work that prevents roadway flooding during heavy rain.

When first enacted in 1999, the threshold amount was set at \$60,000,⁴² and the Legislature increased that amount to the current \$120,000 in 2002.⁴³

Construction Costs and Inflation

The FDOT advises that the usefulness of this statute has been limited by increased construction costs due to inflation and notes the only issue with meeting the conditions outlined in the statute is the current \$120,000 cap. The FDOT performed an analysis to reach an approximate estimate of the current \$120,000 contract cap converted to present-day costs, concluding that the current cap, adjusted for inflation, amounts to over \$200,000.⁴⁴ The FDOT advises that increasing the current cap to \$250,000 “will account for increased construction costs and extend the Department’s ability to quickly respond to construction and maintenance needs that are in the best interest of safety and the economy.”⁴⁵

Effect of Proposed Changes:

Section 3 amends s. 337.11(6)(c), F.S., to increase the current \$120,000 threshold amount to \$250,000. The FDOT will be authorized to enter into maintenance and construction contracts, after making the necessary determination and when circumstances dictate rapid completion of the work, up to a contract amount of \$250,000. The FDOT’s described authority to waive all or a portion of a required surety bond remains unchanged.

⁴¹ Section 337.11(6)(c), F.S.

⁴² Ch. 99-385, Laws of Fla.

⁴³ Ch. 2002-20, Laws of Fla.

⁴⁴ See the FDOT’s Office of Policy Planning document, *Advisory Inflation Factors for Previous Years (1987-2016)*, available at: <http://www.fdot.gov/planning/policy/costs/retrocostinflation.pdf>. (Last visited January 25, 2017.)

⁴⁵ See the FDOT’s 2017 Legislative Proposal, *Rapid-Response Contracts-Price Increase*. (On file in the Senate Transportation Committee.)

Turnpike Revenue Bonds/Bond Validation (Sections 4 and 10)***Present Situation:*****Bond Validation**

The Division of Bond Finance (DBF) is authorized to issue revenue bonds on behalf of the FDOT to finance or refinance the cost of legislatively approved turnpike projects in accordance with s. 11(f), Art. VII of the State Constitution.⁴⁶ The state or its agencies may issue revenue bonds without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects⁴⁷ authorized by law, and purposes incidental thereto, which bonds are payable solely from funds other than state tax revenues; e.g., toll revenues.⁴⁸ The DBF must submit a proposed bond issuance for approval by the State Board of Administration.⁴⁹ The Board, by resolution, may authorize the DBF to issue bonds on behalf of a state agency at one time or from time to time,⁵⁰ and the Board must approve all bonds to be issued by the DBF as to fiscal sufficiency.⁵¹

Once approved, such bonds must be validated under ch. 75, F.S.⁵² In a bond validation proceeding, the entity authorized by law to issue bonds files a complaint to establish its authority to incur bonded debt, as well as the legality of all proceedings in connection with the bond issuance.⁵³ A final judgment validating such bonds is “forever conclusive” and may not be challenged in any court by any person or party.⁵⁴

As described by the DBF with specific reference to Turnpike bonds:

Bond validation is a judicial procedure through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government’s pledge to repay the bonds. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory

⁴⁶ Section 338.227(3), F.S.

⁴⁷ Defined in s. 216.011(1)(p), F.S., to mean the appropriation category used to fund real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.), including additions, replacements, major repairs, and renovations to real property which materially extend its useful life or materially improve or change its functional use and including furniture and equipment necessary to furnish and operate a new or improved facility, when appropriated by the Legislature in the fixed capital outlay appropriation category.

⁴⁸ See also s. 215.59(2) and s. 215.79, F.S.

⁴⁹ The State Board of Administration, created by the Florida Constitution, is governed by the Governor as the Chair of the Board of Trustees, the Chief Financial Officer, and the Attorney General. The Board is one of several boards and commissions making up the Florida Cabinet system. The Florida Cabinet consists of the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.

⁵⁰ Section 215.68, (1), F.S.

⁵¹ Section 215.73, F.S.

⁵² Section 215.82(2), F.S.

⁵³ See s. 75.02, F.S.

⁵⁴ Section 75.09, F.S.

question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.⁵⁵

Required Notice Publication

In any action to validate bonds issued pursuant to s. 338.227, F.S., the complaint must be filed in the circuit court of Leon County, and the notice required by s. 75.06, F.S., must be published in a newspaper of general circulation *in Leon County and in two other newspapers of general circulation in the state*.⁵⁶ The complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending (the Second Circuit).

Section 75.06(2), F.S., requires the clerk, before the date set for hearing on a complaint to validate Turnpike bonds, to publish a copy of the court's order requiring appearance at the hearing in Leon County at least once each week for two consecutive weeks, commencing with the first publication, which may not be less than 20 days before the date set for hearing, *in a newspaper in each of the counties where the proceeds of the bonds are to be expended, and in a newspaper published in Leon County*.⁵⁷

However, if publication pursuant to s. 215.82, F.S., would require publication in more newspapers than would publication pursuant to s. 75.06, F.S., then publication pursuant to s. 75.06, F.S., controls.⁵⁸ The currently required publication is dependent upon the geographic reach of the project(s) for which funding through bond issuance is sought.

Effect of Proposed Changes:

The bill leaves validation of turnpike bonds to the discretion of the DBF and limits provisions relating to publication of the required notice.

Section 4 creates subsection (5) of s. 338.227, F.S., to:

- Provide turnpike bonds issued pursuant to that section are not required to be validated pursuant to chapter 75, F.S., notwithstanding s. 215.82, F.S.;
- Provide for validation at the option of the DBF; and
- Require the notice under s. 75.06, F.S., to be published only in Leon County.

Section 10 amends s. 215.82(2), F.S., to strike the reference to s. 338.227, F.S., and add a reference to the language in newly created s. 338.227(5), F.S.

⁵⁵ See copy of email from the Florida Division of Bond Finance to House staff dated January 27, 2015 (On file with the Senate Committee on Transportation).

⁵⁶ Emphasis added.

⁵⁷ Emphasis added.

⁵⁸ See s. 215.82(2), F.S.

Emergency Work Program Amendments (Section 5)

Present Situation:

The FDOT's Work Program

The FDOT is responsible for developing a five-year plan of transportation projects in partnership with other entities such as communities, metropolitan planning organizations, local governments, other state and federal agencies, modal partners, and regional entities. Each of the FDOT's districts develops a "district work program," which is a five-year listing of transportation projects planned for each fiscal year and submitted to the FDOT's central office for review. The central office then develops a "tentative work program" (TWP) based on the district work programs. The TWP is a future five-year listing of all projects planned for each fiscal year, setting forth all projects by phase to be undertaken during the ensuing fiscal year and planned for the successive four fiscal years. On July 1 of each year, the FDOT adopts the "adopted work program," (AWP) which is the five-year listing of all projects planned for each fiscal year, including the current fiscal year.⁵⁹

The TWPs and AWP's must set out the proposed commitments and planned expenditures for the projects listed and be based on a complete, balanced financial plan.⁶⁰ Commitments⁶¹ generally must be planned so as to deplete the estimated resources for the fiscal year.⁶² Budgeting in excess of revenues received from various sources is prohibited.⁶³ The FDOT may include in each new TWP proposed changes to the projects contained in the previous AWP but is required to minimize changes to the four common fiscal years contained in the previous AWP and the new TWP.⁶⁴

Amending the Adopted Work Program

The AWP may be amended, subject to certain procedures. The FDOT may amend the AWP to transfer fixed capital outlay appropriations for projects within the same appropriations category or between appropriations categories, including the following:

- To delete any project or project phase estimated to cost over \$150,000;
- To add a project estimated to cost over \$500,000;
- To advance or defer to another fiscal year a right-of-way phase, a construction phase, or a public transportation project phase estimated to cost over \$1.5 million, with certain exceptions; or

⁵⁹ See s. 339.135, F.S.

⁶⁰ Section 339.135(3)(a), F.S.

⁶¹ The FDOT operates on a cash flow-commitment basis. Multi-year transportation projects begin before the total amount of cash is available to fund the entire project. Future revenues are used to pay for a project as actual expenditures occur. The FDOT measures and evaluates anticipated future revenues against total and planned project commitments. See the FDOT's *Work Program 101* computer based training available at: <http://wbt.dot.state.fl.us/ois/WorkProgram101CBT/index.shtm>. (Last visited December 2, 2016.)

⁶² Section 339.135(3)(b), F.S.

⁶³ Section 339.315(3)(c), F.S.

⁶⁴ Section 339.315(4)(b)3., F.S.

- To advance or defer to another fiscal year any preliminary engineering phase or design phase estimated to cost over \$500,000, with certain exceptions.^{65, 66}

If the FDOT proposes any amendment to the AWP described above the FDOT must submit the proposed amendment to the Governor for approval.⁶⁷ The FDOT must notify:

- The chairs of the appropriations and transportation committees;
- Each member of the Legislature representing a district affected by the proposed amendment; and
- Each affected metropolitan planning organization (MPO) and unit of local government, if not notified in connection with the 14-day comment period.⁶⁸

Current law prohibits the Governor from approving a proposed amendment until 14 days following the notification to the committee chairs, Legislative members, MPOs, and local governments.⁶⁹ If either of the appropriations committee chairs, the Senate President, or the House Speaker objects in writing to a proposed amendment within 14 days following the notification and specifies the reason for the objection, the Governor must disapprove the proposed amendment.⁷⁰

Any work program amendment that also requires the transfer of fixed capital outlay⁷¹ appropriations between categories within the FDOT, or the increase of an appropriation category, is subject to the approval of the Legislative Budget Commission (LBC), if not subject to legislation enacted in 2016.⁷² The 2016 legislation required LBC approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP.⁷³

Emergency Work Program Amendments

Recognizing that circumstances can arise that would make the above-described processes unworkable, existing law makes provision for emergencies. Notwithstanding the notification and approval requirements described above and the requirement for LBC review of amendments transferring fixed capital outlay appropriations between categories,⁷⁴ current law authorizes the

⁶⁵ Section 339.135(7)(c), F.S.

⁶⁶ FDOT Districts may loan funds between districts, under specified conditions. Such loans constitute an amendment to the AWP per s. 339.135(7)(b), F.S., and are subject to the same budget amendment threshold amounts contained in s. 339.135(7)(c), F.S. The FDOT is required to index the thresholds to the Consumer Price Index or similar inflation indicators no more frequently than once a year, subject to specified notice and review procedures

⁶⁷ If the amendment deletes or defers a capacity project construction phase, affected counties and cities must be given a 14-day comment period prior to the amendment being submitted to the Governor. Section 339.135(7)(d)1., F.S.

⁶⁸ Section 339.135(7)(d)2., F.S.

⁶⁹ Section 339.135(7)(d)3., F.S.

⁷⁰ Section 339.135(7)(d)4., F.S.

⁷¹ Defined in s. 216.011(1)(p), F.S., to mean the appropriation category used to fund real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.), including additions, replacements, major repairs, and renovations to real property which materially extend its useful life or materially improve or change its functional use and including furniture and equipment necessary to furnish and operate a new or improved facility, when appropriated by the Legislature in the fixed capital outlay appropriation category.

⁷² Section 339.135(7)(g), F.S.

⁷³ Section 339.135(7)(h), F.S.

⁷⁴ Section 339.135(7)(e), F.S., also expressly notwithstanding the provisions of s. 216.772(2), F.S., relating to certain other notice, review, and objection procedures with respect to appropriations, and s. 216.351, F.S., providing that subsequent inconsistent laws supersede that chapter only by express reference to that section,.

FDOT secretary to request AWP amendments when an emergency⁷⁵ exists and the emergency relates to the repair or rehabilitation of any state transportation facility. The Governor may grant approval and amend the FDOT's approved budget if a delay due to the notification requirements described above would be detrimental to the interests of the state. The FDOT must immediately notify the committee chairs and the affected Legislative members, MPOs, and local governments, and provide written justification for the emergency action within seven days after approval.⁷⁶

The FDOT notes that this exemption ensures that emergency repairs proceed quickly, protecting the safety and convenience of the traveling public.⁷⁷ However, when the 2016 legislation was enacted to require LBC approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP, no exception from the notification, approval, and LBC-review requirements was granted for emergencies. The FDOT seeks to clarify that emergency work program amendments are also exempt from the LBC approval requirement of the 2016 legislation. In Fiscal Year 2016-2017 so far, the FDOT advises only one work program amendment was submitted for LBC review that, under the proposed revision, would not have been submitted.⁷⁸

Effect of Proposed Changes:

Section 5 amends s. 339.135(7)(e), F.S., relating to emergency amendment of the FDOT's work program, to insert a cross-reference to subsection (h), relating to the 2016 requirement for LBC review and approval of any work program amendment in excess of \$3 million that also adds a new project, or phase thereof, to the AWP. This revision results in an exception to LBC review and approval of such amendments in the case of emergencies, under the conditions specified in current law.

Florida Highway Beautification Council Repeal/FDOT Grant Program (Section 6)

Present Situation:

The Council's Role

Section 339.2405, F.S., established the Florida Highway Beautification Council (Council) within the FDOT in 1987. The Council consists of seven members appointed by and serving at the pleasure of the Governor, with each chair selected by the Council members and serving a two-year term. Currently, all appointed members must be residents of this state. Of the seven members, two must be private citizens and one each must be:

- A licensed landscape architect;
- A representative of the Florida Federation of Garden Clubs, Inc.;

⁷⁵ Defined by s. 252.34(4), F.S., to mean any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

⁷⁶ Current law prohibits amending the AWP for emergency purposes unless the FDOT's comptroller certifies the availability of sufficient funds. Section 339.135(7)(e), F.S.

⁷⁷ See the FDOT's 2017 Legislative Proposal, *Work Program Amendments-LBC/Emergency Projects*. (On file in the Senate Transportation Committee.)

⁷⁸ See the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

- A representative of the Florida Nurserymen and Grower Association;
- An FDOT representative designated by the FDOT secretary; and
- A representative of the Department of Agriculture and Consumer Services.

The Council is required to meet at least semiannually and may prescribe, amend, and repeal bylaws. The Council's duties are to:

- Provide information to local governments and local highway beautification councils about the state highway beautification grants program;
- Accept and review grant requests from local governments;
- Establish rules for evaluating and prioritizing the grant requests;
- Maintain a prioritized list of approved grant requests;
- Assess the feasibility of planting and maintain indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways;
- At the request of the FDOT secretary, review and make recommendations on any other highway beautification matters; and
- Annually submit to the FDOT secretary a proposal recommending the level of grant funding.

Local councils may be created by local governmental entities or by the Legislature. The local government or governments of the area in which the project is located must approve a grant request before its submission to the Council. After receiving recommendations from the Council, the FDOT secretary must award grants to local governmental entities in the order they appear on the Council's prioritized list and in accordance with available funding.⁷⁹

Beautification grants may be requested only for projects to beautify through landscaping roads on the State Highway System. A grant request must identify all costs associated with the project, including sprinkler systems, plant materials, equipment, and labor. Grant funds must provide for the costs of purchase and installation of a sprinkler system and the cost of plant materials and fertilizer. Grant funds may provide for the costs for labor associated with the installation of plantings.

Each local government that receives a grant is responsible for paying any costs for water, sprinkler system maintenance, and landscaped area maintenance in accordance with a maintenance agreement with the FDOT. Except as provided in the grant, each local government is also responsible for paying any costs for labor associated with plant installation. The FDOT is authorized to provide by contract services to maintain such landscaping at a level not to exceed the cost of routine maintenance of an equivalent un-landscaped area.

The FDOT's Role

The FDOT reports that each FDOT District appoints a District Highway Beautification Council Grant Manager (District Manager). The District Manager works with the District Landscape Architect and the State Transportation Landscape Architect (STLA), promoting the grant

⁷⁹ Section 334.044(26), F.S., requires the FDOT to allocate no less than 1.5 percent of the amount contracted for roadway and bridge construction projects for the purchase of plant materials. The FDOT advises that highway beautification grant funds are included in its calculation of the 1.5 percent requirement. See the FDOT's response to staff questions. (On file in the Senate Transportation Committee.)

program and assisting applicants through the grant process. Each District Manager compiles and submits to the STLA a district-wide list of all applications received, and the STLA then compiles a statewide list. After the Council ranks each project, the STLA produces a Ranked Listing of the projects. Grants are awarded in the ranked order until the remaining budget is insufficient to fund the next ranked project.⁸⁰

Recent Grant Funding and Council Expenses

The line items for highway beautification included in the FDOT's budget for the most recent five Fiscal Years is as follows:

<u>Fiscal Year</u>	<u>Line-Item</u>
2012-2013	\$1,000,000
2013-2014	\$1,000,000
2014-2015	\$1,800,000
2015-2016	\$1,817,000
2016-2017	\$1,800,000 ⁸¹

The FDOT is required to provide staff support services to the Council. For Fiscal Years 2012-13 through 2016-17, the FDOT advises it expended \$167,500 for administrative costs and travel to support the Council.⁸²

Effect of Proposed Changes

The bill repeals the Florida Highway Beautification Council and creates the Florida Highway Beautification Grant Program within the FDOT, with the FDOT secretary awarding grants to local governmental entities for beautification of roads on the State Highway System based on the FDOT's prioritized list.

Section 6 amends s. 339.2405, F.S., creating the Grant Program within the FDOT and repealing all of the provisions relating to the Council, its membership, chair selection, meeting frequency, quorum requirements, compensation, and bylaws, etc.

The current Council duties are transferred to the FDOT, with the exception of assessing the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, using data from other states. The bill removes the required assessment, as it has been accomplished. The FDOT continues its efforts to improve aesthetics and driver safety while lowering maintenance costs through its Wildflower and Natural Areas Program.⁸³

⁸⁰ See the FDOT's 2017 Legislative Proposal, *Repeal of the Florida Highway Beautification Council*. (On file in the Senate Transportation Committee.)

⁸¹ *Id.*

⁸² See the FDOT's *Estimated Admin and Travel Expense to Administer the Grants*. (On file in the Senate Transportation Committee.)

⁸³ See the FDOT website for further information on the current program, including links to the referenced report, a history of the program, the FDOT's current wildflower procedure, and other related details available at: <http://www.fdot.gov/designsupport/wildflowers/default.shtm>. (Last visited March 2, 2017.)

Also removed to conform to the repeal of the Council is its authorization to make recommendations on other highway beautification matters and direction to the FDOT secretary to provide staff support services to the Council. Authorization to create local councils remains in place. The FDOT would rank the requests, rather than the Council, and the FDOT secretary would award grants based on the FDOT's prioritized list of approved grant requests, until the remaining budget is insufficient to fund the next ranked project.

South Florida Regional Transportation Authority (SFRTA) Funding and Contracting (Sections 7 – 9)

Present Situation:

The SFRTA and Funding

The SFRTA, created in 2003, is an agency of the state established in part II of ch. 343, F.S. The governing body of ten voting members includes:

- One county commissioner each, elected by the county commission from Broward, Miami-Dade, and Palm Beach Counties;
- One citizen who is not a commission member, appointed by each county commission;
- An FDOT district secretary or his designee appointed by the FDOT secretary; and
- Three citizens appointed by the Governor.

Members serve four-year terms, except that the terms of the Governor's appointees must be concurrent.

The SFRTA is authorized to coordinate, develop, and operate a regional transportation system in the tri-county area of Broward, Miami-Dade, and Palm Beach Counties. The SFRTA provides commuter rail service (Tri-Rail) for residents and visitors in the area served. Statutory provisions require each of the three counties served to provide no less than \$2.67 million annually, dedicated by each governing body by October 1 of each year, which funds may be used for capital, operations, and maintenance.⁸⁴ Additionally, current law requires each county to annually fund SFRTA operations in an amount no less than \$1.565 million.⁸⁵

Further, if the SFRTA, by December 31, 2015, had not received federal matching funds based on the dedicated \$2.67 million in tri-county funding, current law provides that funding is repealed. The SFRTA's 2016 Comprehensive Annual Financial Report reflects that the three counties contributed approximately \$1.6 million each towards the SFRTA's operating budget in Fiscal Years 2015 and 2016.⁸⁶ Thus, it appears the SFRTA received no federal matching funds, and the counties are no longer required to provide the annual \$2.67 million to the SFRTA.

The SFRTA is currently responsible for dispatching, maintenance, and inspection of the South Florida Rail Corridor.⁸⁷ Having assumed such responsibility, the FDOT is required to annually transfer to the SFRTA a total of \$42.1 million as follows:

⁸⁴ Section 348.58(1), F.S.

⁸⁵ Section 348.58(3), F.S.

⁸⁶ *Supra* note 89.

⁸⁷ *Transportation Authority Monitoring and Oversight Fiscal Year 2015 Report*, pp. 197-199, available at: <http://www.ftc.state.fl.us/documents/reports/TAMO/FY2015Report.pdf>. (Last visited March 2, 2017.)

- \$15 million for SFRTA operations, maintenance, and dispatch; and
- \$27.1 million for operating assistance, corridor track maintenance, and contract maintenance for the SFRTA.⁸⁸

According to a Florida Transportation Commission report, the FDOT has agreed to cover 100 percent of annual maintenance costs up to \$14.4 million, with shared costs in excess of that amount, pursuant to an Operating Agreement between the FDOT and the SFRTA setting out agreed-upon percentages.⁸⁹ The SFRTA's 2016 Comprehensive Annual Financial Report indicates that of the \$102,201,506 million in total revenue for 2016, the FDOT contributed \$55,260,036 million or 54.1 percent.⁹⁰

The FDOT's Oversight Role

The SFRTA may not commit any funds provided by the FDOT without the FDOT's approval. The FDOT may not unreasonably withhold approval. At least 90 days before advertising any procurement or renewing any existing contract using state funds for payment, the SFRTA must notify the FDOT of the proposed procurement or renewal and the proposed terms. If the FDOT objects in writing within 60 days of receipt of the notice, the SFRTA may not proceed. Failure of the FDOT to object within 60 days is deemed consent.⁹¹ To enable the FDOT's evaluation of the SFRTA's proposed uses of state funds, the SFRTA must annually provide the FDOT with its proposed budget and with any additional documentation or information required by the FDOT.⁹²

Recent Contracting

According to the SFRTA, services for the operation of Tri-Rail are currently provided through four separate contracts covering train operations, maintenance of equipment, train dispatching, and station maintenance. Those contracts expire in June of this year. The SFRTA made a decision to bundle the four contracts into one and, on September 22, 2016, issued a Request for Proposals (RFP). Eighty percent of the scoring of the proposals was to be based on technical ability to do the work; 20 percent was to be based on price. The RFP cautioned proposers not to condition their prices. Proposals were due by December 16, 2016.⁹³

According to the SFRTA, five of the six proposers submitted with their price proposals "extraneous" pages with labels such as "Proposal Exceptions," "Exceptions to RFP," and "Pricing Assumptions."⁹⁴ Other examples included pages indicating that their price did not include the cost of certain requirements in the RFP or that the price assumed facts that contradicted the RFP.⁹⁵ The SFRTA's procurement director determined five of the six proposers had materially and significantly conditioned their proposals — specifically, their price — and that

⁸⁸ Section 348.58(4)(a)1., F.S.

⁸⁹ *Supra* note 86, p. 197.

⁹⁰ At p. 25, available at: http://www.sfrta.fl.gov/docs/overview/Fiscal-Year-2016_Comprehensive-Annual-Financial-Report-FINAL.pdf. (Last visited March 2, 2017.)

⁹¹ Section 348.58(4)(c)1., F.S.

⁹² Section 348.58(4)(c)2., F.S.

⁹³ See the SFRTA presentation to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 16, 2017, available at:

http://www.flsenate.gov/media/VideoPlayer?EventID=2443575804_2017021204. (Last visited March 2, 2017.)

⁹⁴ *Id.* at (52:29).

⁹⁵ *Id.* at (53:18).

the proposals were therefore nonresponsive and should be rejected, based on requirements in the RFP.⁹⁶

On January 27, 2017, the SFRTA's governing board approved a Notice of Intent of Contract Award for Request for Proposal 16-010 "Operating Services," reflecting a determination to enter into a contract with an initial seven-year term, plus a three-year renewal option, for a price of \$511,418,271.65.⁹⁷

A request for an injunction to block Tri-Rail from awarding the contract was rejected following issuance of a temporary injunction to enable judicial review of allegations of unfair disqualification. The judge in the case ruled that the plaintiff failed to show any entitlement to a preliminary injunction and had not established a likelihood of success on the merits of their case."⁹⁸ Four of the five rejected bidders have timely filed a bid protest with the SFRTA, which is currently under review.⁹⁹

Effect of Proposed Changes:

The bill places restrictions on the SFRTA's contracting authority and use of state funds and revises the FDOT's oversight role.

Section 8 amends s. 343.54, F.S., to prohibit the SFRTA from entering into, extending, or renewing any contract or other agreement under that part without the FDOT's prior review and written approval of the SFRTA's proposed expenditures, if such contract or agreement may be funded, in whole or in part, with FDOT-provided funds. The prohibition applies notwithstanding any provision of that part, which contains the SFRTA's authorization to enter into contracts. The SFRTA must obtain the FDOT's approval, under the funding condition specified, to enter into, extend, or renew any contract or other agreement.

Section 9 amends s. 343.48(4)(c)1., F.S., removing the current statutory language:

- Prohibiting the FDOT from unreasonably withholding its approval of the SFRTA's commitment of FDOT-provided funds;
- Requiring the SFRTA to notify the FDOT of a proposed procurement or renewal before advertising any procurement or renewing any existing contract that will rely on state funds;
- Requiring the FDOT to object in writing and, if timely, prohibiting the SFRTA from proceeding with the procurement or renewal;
- Providing that the FDOT's failure to timely object constitutes consent; and
- Removing no-impairment-of-contract language for contracts existing as of June 30, 2012.

⁹⁶ *Id.* at (51:15).

⁹⁷ Available at: <http://www.sfrta.fl.gov/docs/Procurement/Posting-Notice-Operating-Services.pdf>. (Last visited March 3, 2017.)

⁹⁸ See *Transdev Services, Inc., et al., v. South Florida Regional Transportation Authority*, Case No.: 17-000877 CACE(21), Broward County Circuit Court, public copy available at: <https://www.browardclerk.org/Web2/WebForms/Document.aspx?CaseID=ODc4NTc2MA%3d%3d-%2fxl4ct%2bcVyo%3d&CaseNumber=CACE17000877&FragmentID=MjM3NTk1MzQ%3d-tV6MANspieA%3d&DtFile=01/17/2017&DocName=Order&PgCnt=22&UserName=&UserType=Anonymous>. (Last visited March 24, 2017.)

⁹⁹ Telephone conversation with the SFRTA staff, March 24, 2017.

This section replaces the notice and objection process with language prohibiting the SFRTA from committing the annual FDOT-provided \$42.1 million without the FDOT's prior review and written approval of the proposed expenditures.

This section prohibits the FDOT from providing that annual funding until the SFRTA withdraws, cancels, or otherwise terminates its Notice of Intent of Contract Award. The bill also requires the SFRTA to obtain the FDOT's written approval of a new procurement and contract for the services that were the subject of the RFP to ensure the SFRTA has sufficient revenue to fund the contract.

Section 7 amends s. 343.52, F.S., to define "department" within Part II of ch. 343, F.S., to mean the Department of Transportation.

Section 12 provides the act takes effect on July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 1: The trucking industry may realize an insignificant positive fiscal impact resulting from the additional weight allowance for natural gas vehicles due to potentially fewer overweight citations.

Section 3: The FDOT notes an indeterminate positive fiscal impact to the extent a private sector company is awarded a fast response contract and is not required to obtain a surety bond.¹⁰⁰

¹⁰⁰ See the FDOT's 2017 Legislative Proposal, *Rapid Response Contracts – Price Cap Increase*. (On file in the Senate Transportation Committee.)

C. Government Sector Impact:

Section 1: The FDOT may realize a loss of revenues relating to fewer overweight citations being written. This revenue loss may be offset to an extent by reduced regulatory costs. A potential withholding of federal funds is avoided.

Section 2: The FDOT will incur additional administrative expenses associated with developing the federally required bridge inspection policies and criteria, seeking FHWA approval, and revising relevant policies and procedures, which expenses are expected to be absorbed within existing resources. The FDOT expects cost savings to the extent the FHWA approves bridges for extended inspection frequencies. The FDOT estimates approximately \$500,000 in inspection services could be redirected to bridge repair, rehabilitation, and/or replacement.¹⁰¹

Section 4: The DBF may avoid some costs if it is not required to validate turnpike revenue bonds.

Section 6: Based on costs for Fiscal Years 2012-13 through 2016-17, the FDOT is expected to realize a positive fiscal impact of approximately \$33,400 annually resulting from repeal of the Florida Highway Beautification Council, due to removal of the FDOT's duty to provide for administrative costs and travel to support the Council. The FDOT will absorb administrative expenses associated with revising Rule Chapter 14-40, F.A.C., and implementing the grant program, within existing resources.

Sections 8 and 9: The FDOT and the SFRTA may incur additional administrative expenses associated with the FDOT's review and written approval of the SFRTA's proposed expenditures using any funding provided to the SFRTA under s. 343.58(4), F.S. However, the bill prohibits the FDOT from providing funding to the SFRTA under that section until the authority withdraws, cancels, or otherwise terminates the authority's Notice of Intent of Contract Award.

The fiscal impact of this termination requirement is unclear for a number of reasons. First, the outcome of the ongoing bid protest is unknown. Second, regardless of the outcome of the bid protest, the contract may or may not be subject to termination, depending on the contract terms. Those terms may include provisions allowing termination for convenience or termination due to uncontrollable forces such as governmental action. Finally, any action on the part of the SFRTA with respect to withdrawal, cancellation, or termination of the Notice of Intent effectively terminates the underlying contract. In such case, the SFRTA may be subject to a breach of contract claim, depending on the specific language in the RFP and the contract, and on the validity of the underlying contract.

VI. Technical Deficiencies:

None.

¹⁰¹ See the FDOT's 2017 Legislative Proposal, *Bridge Inspection Frequency*. (On file in the Senate Transportation Committee.)

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 316.545, 335.074, 337.11, 338.227, 339.135, 339.2405, 343.52, 343.54, 343.58, 215.82, and 343.53.

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

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

CS by Transportation on March 28, 2017:

A technical amendment to the original bill was adopted to clarify that the 2,000-pound weight allowance for natural gas-powered trucks is in addition to the 500-pound weight allowance for idle reduction technology.

B. Amendments:

None.

By the Committee on Transportation; and Senators Gainer and Rouson

596-03007-17

20171118c1

1 A bill to be entitled
 2 An act relating to transportation; amending s.
 3 316.545, F.S.; providing for the calculation of fines
 4 for unlawful weight and load for a vehicle fueled by
 5 natural gas; requiring the vehicle operator to present
 6 a certain written certification upon request by a
 7 weight inspector or law enforcement officer;
 8 prescribing a maximum actual gross vehicle weight for
 9 vehicles fueled by natural gas; providing
 10 applicability; amending s. 335.074, F.S.; requiring
 11 bridges on public transportation facilities to be
 12 inspected for certain purposes at regular intervals as
 13 required by the Federal Highway Administration;
 14 amending s. 337.11, F.S.; increasing the allowable
 15 amount for contracts for construction and maintenance
 16 which the Department of Transportation may enter into,
 17 in certain circumstances, without advertising and
 18 receiving competitive bids; amending s. 338.227, F.S.;
 19 providing that certain bonds are not required to be
 20 validated but may be validated at the option of the
 21 Division of Bond Finance; providing filing, notice,
 22 and service requirements for complaints and circuit
 23 court orders concerning such validation; amending s.
 24 339.135, F.S.; providing an additional exception
 25 related to the amendment of adopted work programs when
 26 an emergency exists; amending s. 339.2405, F.S.;
 27 replacing the Florida Highway Beautification Council
 28 within the department with the Florida Highway
 29 Beautification Grant Program; providing the purpose of

Page 1 of 15

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596-03007-17

20171118c1

30 the program; providing duties of the department,
 31 including the establishment of rules related to grant
 32 requests; conforming provisions to changes made by the
 33 act; amending s. 343.52, F.S.; defining the term
 34 "department"; amending s. 343.54, F.S.; prohibiting
 35 the South Florida Regional Transportation Authority
 36 from entering into, extending, or renewing certain
 37 contracts or other agreements without the department's
 38 prior review and written approval if such contracts or
 39 agreements may be funded with funds provided by the
 40 department; amending s. 343.58, F.S.; prohibiting
 41 specified funds provided to the authority by the
 42 department from being committed by the authority
 43 without the prior review and written approval by the
 44 department of the authority's expenditures; deleting
 45 requirements relating to notification by the authority
 46 to the department of a proposed procurement or of a
 47 renewal of any existing contract that will rely on
 48 state funds for payment; requiring the authority to
 49 promptly provide the department any documentation or
 50 information, in addition to the proposed annual
 51 budget, which is required by the department for its
 52 evaluation of the proposed uses of state funds;
 53 prohibiting certain funding from being provided to the
 54 authority by the department until the authority
 55 terminates a Notice of Intent of Contract Award for a
 56 specified request for proposal; requiring the
 57 authority, before entering into a new contract for the
 58 services that were the subject of such request for

Page 2 of 15

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596-03007-17

20171118c1

proposal, to obtain the department's written approval of all terms and conditions of the new procurement and contract for such services; amending s. 215.82, F.S.; conforming a provision to changes made by the act; amending s. 343.53, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Present paragraphs (c) and (d) of subsection (3) of section 316.545, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, and a new paragraph (c) is added to that subsection, to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(3)

(c)1. For a vehicle fueled by natural gas, the fine is calculated by reducing the actual gross vehicle weight by the certified weight difference between the natural gas tank and fueling system and a comparable diesel tank and fueling system. Upon the request of a weight inspector or a law enforcement officer, the vehicle operator shall present a written certification that identifies the weight of the natural gas tank and fueling system and the difference in weight of a comparable diesel tank and fueling system. The written certification must originate from the vehicle manufacturer or the installer of the natural gas tank and fueling system.

2. The actual gross vehicle weight for vehicles fueled by natural gas may not exceed 82,000 pounds, excluding the weight

596-03007-17

20171118c1

allowed for idle-reduction technology under paragraph (b).

3. This paragraph does not apply to vehicles described in s. 316.535(6).

Section 2. Subsection (2) of section 335.074, Florida Statutes, is amended to read:

335.074 Safety inspection of bridges.—

(2) At regular intervals as required by the Federal Highway Administration ~~not to exceed 2 years~~, each bridge on a public transportation facility shall be inspected for structural soundness and safety for the passage of traffic on such bridge. The thoroughness with which bridges are to be inspected shall depend on such factors as age, traffic characteristics, state of maintenance, and known deficiencies. The governmental entity having maintenance responsibility for any such bridge shall be responsible for having inspections performed and reports prepared in accordance with the provisions contained herein.

Section 3. Paragraph (c) of subsection (6) of section 337.11, Florida Statutes, is amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(6)

(c) When the department determines that it is in the best interest of the public for reasons of public concern, economy, improved operations, or safety, and only for contracts for construction and maintenance which do not exceed \$250,000 when circumstances dictate rapid completion of the work, the department may, ~~up to the amount of \$120,000,~~ enter into

596-03007-17 20171118c1

contracts ~~for construction and maintenance~~ without advertising and receiving competitive bids. The department may enter into such contracts only upon a determination that the work is necessary for one of the following reasons:

1. To ensure timely completion of projects or avoidance of undue delay for other projects;
2. To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or
3. To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.

The department shall make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract. The department shall give consideration to disadvantaged business enterprise participation. However, when the work exists within the limits of an existing contract, the department shall make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract.

Section 4. Subsection (5) is added to section 338.227, Florida Statutes, to read:

338.227 Turnpike revenue bonds.—

(5) Notwithstanding s. 215.82, bonds issued pursuant to this section are not required to be validated pursuant to chapter 75 but may be validated at the option of the Division of Bond Finance. Any complaint about such validation must be filed in the circuit court of the county in which the seat of state

596-03007-17 20171118c1

government is situated, and the clerk shall publish the notice as required by s. 75.06 only in the county in which the complaint is filed. The complaint and order of the circuit court must be served on the state attorney of the circuit in which the action is pending.

Section 5. Paragraph (e) of subsection (7) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(e) Notwithstanding paragraphs (d), ~~and~~ (g), and (h) and ss. 216.177(2) and 216.351, the secretary may request the Executive Office of the Governor to amend the adopted work program when an emergency exists, as defined in s. 252.34, and the emergency relates to the repair or rehabilitation of any state transportation facility. The Executive Office of the Governor may approve the amendment to the adopted work program and amend that portion of the department's approved budget if a delay incident to the notification requirements in paragraph (d) would be detrimental to the interests of the state. However, the department shall immediately notify the parties specified in paragraph (d) and provide such parties written justification for the emergency action within 7 days after approval by the Executive Office of the Governor of the amendment to the adopted work program and the department's budget. The adopted work program may not be amended under this subsection without certification by the comptroller of the department that there are sufficient funds available pursuant to the 36-month cash forecast and applicable statutes.

596-03007-17

20171118c1

Section 6. Section 339.2405, Florida Statutes, is amended to read:

339.2405 Florida Highway Beautification Grant Program Council.—

(1) There is created within the Department of Transportation the Florida Highway Beautification Grant Program for the purpose of awarding grants to local governmental entities for beautification of roads on the State Highway System as provided in subsections (3) and (4). The department shall Council. It shall consist of seven members appointed by the Governor. All appointed members must be residents of this state. One member must be a licensed landscape architect, one member must be a representative of the Florida Federation of Garden Clubs, Inc., one member must be a representative of the Florida Nurserymen and Growers Association, one member must be a representative of the department as designated by the head of the department, one member must be a representative of the Department of Agriculture and Consumer Services, and two members must be private citizens. The members of the council shall serve at the pleasure of the Governor.

(2) Each chair shall be selected by the council members and shall serve a 2-year term.

(3) The council shall meet no less than semiannually at the call of the chair or, in the chair's absence or incapacity, at the call of the head of the department. Four members shall constitute a quorum for the purpose of exercising all of the powers of the council. A vote of the majority of the members present shall be sufficient for all actions of the council.

(4) The council members shall serve without pay but shall

596-03007-17

20171118c1

~~be entitled to per diem and travel expenses pursuant to s. 112.061.~~

~~(5) A member of the council may not participate in any discussion or decision to recommend grants to any qualified local government with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.~~

~~(6) The council may prescribe, amend, and repeal bylaws governing the manner in which the business of the council is conducted.~~

~~(7) (a) The duties of the council shall be to:~~

~~(a)1-~~ Provide information to local governments and local highway beautification councils regarding the state highway beautification grants program.

~~(b)2-~~ Accept grant requests from local governments.

~~(c)3-~~ Review grant requests for compliance with department council rules.

~~(d)4-~~ Establish rules for evaluating and prioritizing the grant requests. The rules must include, but are not limited to, an examination of each grant's aesthetic value, cost-effectiveness, level of local support, feasibility of installation and maintenance, and compliance with state and federal regulations. Rules adopted by the department council which it uses to evaluate grant applications must take into consideration the contributions made by the highway beautification project in preventing litter.

~~(e)5-~~ Maintain a prioritized list of approved grant requests. The list must include recommended funding levels for each request and, if staged implementation is appropriate,

596-03007-17

20171118c1

233 funding requirements for each stage shall be provided.

234 ~~6. Assess the feasibility of planting and maintaining~~
 235 ~~indigenous wildflowers and plants, instead of sod groundcovers,~~
 236 ~~along the rights-of-way of state roads and highways. In making~~
 237 ~~such assessment, the council shall utilize data from other~~
 238 ~~states which include indigenous wildflower and plant species in~~
 239 ~~their highway vegetative management systems.~~

240 ~~(b) The council may, at the request of the head of the~~
 241 ~~department, review and make recommendations on any other highway~~
 242 ~~beautification matters relating to the State Highway System.~~

243 ~~(8) The head of the department shall provide from existing~~
 244 ~~personnel such staff support services to the council as are~~
 245 ~~necessary to enable the council to fulfill its duties and~~
 246 ~~responsibilities.~~

247 (2)(9) Local highway beautification councils may be created
 248 by local governmental entities or by the Legislature. Prior to
 249 being submitted to the department council, a grant request must
 250 be approved by the local government or governments of the area
 251 in which the project is located.

252 (3)(10) The head of the department, ~~after receiving~~
 253 ~~recommendations from the council~~, shall award grants to local
 254 governmental entities that have submitted grant requests for
 255 beautification of roads on the State Highway System and which
 256 requests are on the ~~council's~~ approved list. The grants shall be
 257 awarded in the order they appear on the ~~council's~~ prioritized
 258 list and in accordance with available funding.

259 (4)(11) State highway beautification grants may be
 260 requested only for projects to beautify through landscaping
 261 roads on the State Highway System. The grant request shall

596-03007-17

20171118c1

262 identify all costs associated with the project, including
 263 sprinkler systems, plant materials, equipment, and labor. A
 264 grant shall provide for the costs of purchase and installation
 265 of a sprinkler system, the cost of plant materials and
 266 fertilizer, and may provide for the costs for labor associated
 267 with the installation of the plantings. Each local government
 268 that receives a grant is ~~shall be~~ responsible for any costs for
 269 water, for the maintenance of the sprinkler system, for the
 270 maintenance of the landscaped areas in accordance with a
 271 maintenance agreement with the department, and, except as
 272 otherwise provided in the grant, for any costs for labor
 273 associated with the installation of the plantings. The
 274 department may provide, by contract, services to maintain such
 275 landscaping at a level not to exceed the cost of routine
 276 maintenance of an equivalent unlandscaped area.

277 ~~(12) The council shall annually submit to the head of the~~
 278 ~~Department of Transportation a proposal recommending the level~~
 279 ~~of grant funding.~~

280 Section 7. Section 343.52, Florida Statutes, is reordered
 281 and amended to read:

282 343.52 Definitions.—As used in this part, the term:

283 (2)(1) "Authority" means the South Florida Regional
 284 Transportation Authority.

285 (3)(2) "Board" means the governing body of the authority.

286 (4) "Department" means the Department of Transportation.

287 (1)(3) "Area served" means Miami-Dade, Broward, and Palm
 288 Beach Counties. However, this area may be expanded by mutual
 289 consent of the authority and the board of county commissioners
 290 of Monroe County. The authority may not expand into any

596-03007-17

20171118c1

additional counties without the department's prior written approval.

~~(8)(4)~~ "Transit system" means a system used for the transportation of people and goods by means of, without limitation, a street railway, an elevated railway having a fixed guideway, a commuter railroad, a subway, motor vehicles, or motor buses, and includes a complete system of tracks, stations, and rolling stock necessary to effectuate passenger service to or from the surrounding regional municipalities.

~~(7)(5)~~ "Transit facilities" means property, avenues of access, equipment, or buildings built and installed in Miami-Dade, Broward, and Palm Beach Counties which are required to support a transit system.

~~(6)(6)~~ "Member" means the individuals constituting the board.

~~(5)(7)~~ "Feeder transit services" means a transit system that transports passengers to or from stations within or across counties.

Section 8. Present subsections (4) and (5) of section 343.54, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and a new subsection (4) is added to that section, to read:

343.54 Powers and duties.—

(4) Notwithstanding any other provision of this part, the authority may not enter into, extend, or renew any contract or other agreement under this part without the department's prior review and written approval of the authority's proposed expenditures if such contract or agreement may be funded, in whole or in part, with funds provided by the department.

596-03007-17

20171118c1

Section 9. Paragraph (c) of subsection (4) of section 343.58, Florida Statutes, is amended, and paragraph (e) is added to that subsection, to read:

343.58 County funding for the South Florida Regional Transportation Authority.—

(4) Notwithstanding any other provision of law to the contrary and effective July 1, 2010, until as provided in paragraph (d), the department shall transfer annually from the State Transportation Trust Fund to the South Florida Regional Transportation Authority the amounts specified in subparagraph (a)1. or subparagraph (a)2.

(c)1. Funds provided to the authority by the department under this subsection may not be committed by the authority without the prior review and written approval by ~~of~~ the department of the authority's expenditures, which may not be unreasonably withheld. At least 90 days before advertising any procurement or renewing any existing contract that will rely on state funds for payment, the authority shall notify the department of the proposed procurement or renewal and the proposed terms thereof. If the department, within 60 days after receipt of notice, objects in writing to the proposed procurement or renewal, specifying its reasons for objection, the authority may not proceed with the proposed procurement or renewal. Failure of the department to object in writing within 60 days after notice shall be deemed consent. This requirement does not impair or cause the authority to cancel contracts that exist as of June 30, 2012.

2. To enable the department to evaluate the authority's proposed uses of state funds, the authority shall annually

596-03007-17

20171118c1

provide the department with its proposed budget for the following authority fiscal year and shall promptly provide the department with any additional documentation or information required by the department for its evaluation of the proposed uses of the state funds.

(e) Funding may not be provided to the authority by the department under this subsection until the authority withdraws, cancels, or otherwise terminates the authority's Notice of Intent of Contract Award for Request for Proposal 16-010 "Operating Services," approved by the authority's board on January 27, 2017. Before entering into a new contract for the services that were the subject of the Request for Proposal 16-010, the authority must obtain the department's written approval of all terms and conditions of a new procurement and contract for the services that were the subject of such request for proposal to ensure that the authority has sufficient revenues to fund the contract.

Section 10. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Program, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the

Page 13 of 15

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596-03007-17

20171118c1

complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1), Art. XII of the State Constitution or issued pursuant to s. 215.605 ~~or s. 338.227~~, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation in the state, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending; provided, however, that if publication of notice pursuant to this section would require publication in more newspapers than would publication pursuant to s. 75.06, such publication shall be made pursuant to s. 75.06.

Section 11. Paragraph (d) of subsection (2) of section 343.53, Florida Statutes, is amended to read:

343.53 South Florida Regional Transportation Authority.—

(2) The governing board of the authority shall consist of 10 voting members, as follows:

(d) If the authority's service area is expanded pursuant to s. 343.54(6) ~~s. 343.54(5)~~, the county containing the new service area shall have two members appointed to the board as follows:

1. The county commission of the county shall elect a commissioner as that commission's representative on the board. The commissioner must be a member of the county commission when elected and for the full extent of his or her term.

Page 14 of 15

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596-03007-17

20171118c1

407 2. The Governor shall appoint a citizen member to the board
408 who is not a member of the county commission but who is a
409 resident and a qualified elector of that county.
410 Section 12. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 1228

INTRODUCER: Senators Gainer and Hutson

SUBJECT: Marine Turtle Protection Act

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Hrdlicka	CJ	Favorable
2. Istler	Rogers	EP	Favorable
3. Reagan	Hansen	AP	Pre-meeting

I. Summary:

SB 1228 amends the offense severity ranking chart provided in section 921.0022(3), Florida Statutes, to:

- Update the cross-reference to section 379.2431(1)(e)7., Florida Statutes, relating to soliciting or conspiring to commit a violation of the Marine Turtle Protection Act; and
- Add section 379.2431(1)(e)6., Florida Statutes, relating to the possession of a marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species.

Under the bill, both offenses are Level 3 offenses.

The bill contains no significant fiscal impact to state revenues or expenditures.

The bill takes effect July 1, 2017.

II. Present Situation:

Marine Turtle Protection Act

The “Marine Turtle Protection Act” (MTPA) was created to ensure that the Fish and Wildlife Conservation Commission (FWC) has the appropriate authority and resources to implement its responsibilities under the recovery plans of the U.S. Fish and Wildlife Services for the following five species of marine turtles:

- Atlantic loggerhead turtle (*Caretta caretta*);
- Atlantic green turtle (*Chelonia mydas*);
- Leatherback turtle (*Dermochelys coriacea*);
- Atlantic hawksbill turtle (*Eretmochelys imbricata*); and

- Atlantic ridley turtle (*Lepidochelys kempi*).¹

The MTPA prohibits a person, firm, or corporation from knowingly possessing, taking, disturbing, mutilating, destroying or causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing any marine turtle species or hatchling, or parts thereof, or the eggs or nest of any marine turtle species.²

The FWC is authorized to:

- Issue a special permit or loan agreement to a person, firm, or corporation to possess a marine turtle species or hatchling, or parts thereof, including nests or eggs, for scientific, education, or exhibition purposes, or for conservation activities such as the relocation of nests, eggs, or marine turtles or hatchlings away from construction sites.
- Issue a special permit or loan agreement to a properly accredited person³ for marine turtle conservation purposes.
- Adopt rules pursuant to ch. 120, F.S., to prescribe terms, conditions, and restrictions for marine turtle conservation, and to permit the possession of marine turtle species, hatchlings, or parts thereof, including nests or eggs.⁴

Penalties for violations of the MTPA are provided in the table below.

Marine Turtle Violations ⁵	Type of Infraction	Civil Penalty or Imprisonment
1st offense for possession of 11 or fewer marine turtle eggs	1st Degree Misdemeanor ⁶	Max. \$1,000 ⁷ and Max. 1 year ⁸
2nd and subsequent offense for possession of 11 or fewer marine turtle eggs	3rd Degree Felony ⁹	Max. \$5,000 ¹⁰ or Max. 5 years ¹¹
1st offense for possession of more than 11 marine turtle eggs	3rd Degree Felony ¹²	Max. \$5,000 or Max. 5 years
Illegally taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing any marine turtle species or hatchling, or parts thereof, or the eggs or nest of any marine turtle species	3rd Degree Felony ¹³	Max. \$5,000 or Max. 5 years

¹ Section 379.2431(1), F.S.

² This provision applies unless authorized in this paragraph or otherwise provided by the Federal Endangered Species Act or its implementing regulations. Section 379.2431(1)(d), F.S.

³ The term “properly accredited person” is defined in s. 379.2431(1)(c), F.S.

⁴ Section 379.2431(d), F.S.

⁵ Section 379.2431(1)(e), F.S.

⁶ Section 379.2431(1)(e)2., F.S.

⁷ Section 775.083(1)(d), F.S.

⁸ Section 775.082(4)(a), F.S.

⁹ Section 379.2431(1)(e)3., F.S.

¹⁰ Section 775.083(1)(c), F.S.

¹¹ Section 775.082(3)(e), F.S.

¹² Section 379.2431(1)(e)4., F.S.

¹³ Section 379.2431(1)(e)5., F.S.

Marine Turtle Violations⁵	Type of Infraction	Civil Penalty or Imprisonment
Possession of any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species	3rd Degree Felony ¹⁴	Max. \$5,000 or Max. 5 years
Soliciting or conspiring to commit a violation of the MTPA	3rd Degree Felony ¹⁵	Max. \$5,000 or Max. 5 years
Additional penalty for each egg associated with the above violations		\$100 per egg ¹⁶

The Criminal Punishment Code (Code), ss. 921.002-921.0027, F.S., provides the sentencing scores for all felony convictions. There are 10 offense levels, ranked from least severe (Level 1 offenses) to most severe (Level 10 offenses). Until the Legislature assigns a specific severity level to an offense, under the Code the severity level defaults, as follows:

- A third degree felony is within a Level 1 offense.
- A second degree felony is within a Level 4 offense.
- A first degree felony is within a Level 7 offense.
- A life felony is within a Level 10 offense.¹⁷

If the Legislature determines that the severity level for a specific felony offense should be more or less severe than the default, the Legislature may assign such felony offense to any specific severity level by placing the felony offense on the offense severity ranking chart provided in s. 921.0022(3), F.S.

According to the FWC, the possession of marine turtle species, hatchlings, or their parts was implied to be illegal along with other prohibitions in s. 379.2431(1)(d), F.S.¹⁸ However, in 2013, a person was charged with a felony of the third degree for knowingly taking a marine turtle in violation of the MTPA. The person placed a live turtle in a cooler and the turtle subsequently died from hypothermia. The statute defines the term “take” to specifically mean “an act that actually kills or injures marine turtles.”¹⁹ Because the person’s actions did not constitute a taking under state law and the possession of sea turtles was not specifically prohibited, the verdict was not guilty.²⁰

To clarify that possession of a marine turtle species was a violation of the MTPA, the Legislature enacted HB 7013 (ch. 2016-107, L.O.F.), which amended s. 379.2431, F.S., to prohibit a person, firm, or corporation from knowingly possessing a marine turtle species or hatchling, or parts thereof, unless otherwise authorized by the Federal Endangered Species Act or its implementing regulations. Chapter 2016-107, L.O.F., added a new subparagraph 6. to provide that a person,

¹⁴ Section 379.2431(1)(e)6., F.S.

¹⁵ Section 379.2431(1)(e)7., F.S.

¹⁶ Section 379.2431(1)(e)1., F.S.

¹⁷ Section 921.0023, F.S.

¹⁸ FWC, *2017 Legislative Proposal Agenda Item 17*, 1 (Nov. 17, 2016), available at <http://myfwc.com/media/4089156/17-proposal.pdf> (last visited April 14, 2017).

¹⁹ Section 379.2431(1)(c), F.S.

²⁰ See FWC, *2017 Legislative Proposal Agenda Item 17*, 1 (Nov. 17, 2016). In a 2015 circuit court case, a judge found a defendant not guilty of violating s. 379.2431(1)(d), F.S. *State v. Alvarez*, Case No. 2013-CF-101AM (Fla. 16th Jud. Cir. 2015).

firm, or corporation that illegally possesses any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species commits a felony of the third degree, punishable by a maximum fine of \$5,000 or a maximum of five years of imprisonment. Adding the new subparagraph 6 made solicitation or conspiracy to commit a violation of the MTPA subparagraph 7.²¹

In ch. 2016-107, L.O.F., the cross-reference to s. 373.2431(1)(e)6., F.S., relating to soliciting to commit or conspiring to commit a violation of the MTPA, on the offense severity ranking chart was not updated to reflect the change in numbering from subparagraph 6 to subparagraph 7. Consequently, the offense severity ranking chart provides a description of the offense of s. 379.2431(1)(e)6., F.S., as soliciting to commit or conspiring to commit a violation of the MTPA and makes no reference to the new language in subparagraph 6 regarding possession.

In ch 2017-3, L.O.F., the cross-reference was amended to conform to the redesignation of subparagraph 6 to subparagraph 7. Therefore, under current law the felony offense for possessing any marine turtle species or hatchling, or parts thereof, is not on the offense severity ranking chart and defaults to a Level 1 offense.

III. Effect of Proposed Changes:

Section 1 amends the offense severity ranking chart provided in s. 921.0022(3), F.S., to:

- Update the cross-reference to s. 379.2431(1)(e)7., F.S., relating to soliciting or conspiring to commit a violation of the Marine Turtle Protection Act; and
- Add s. 379.2431(1)(e)6., F.S., relating to the possession of a marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species.

Section 1 also provides that both offenses are Level 3 offenses.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²¹ Florida Fish and Wildlife Conservation Commission (FWC), *2017 Legislative Proposal* (November 17, 2016) (on file with the Senate Committee on Criminal Justice).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will have a positive insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 921.0022 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Gainer

2-01499-17

20171228__

A bill to be entitled

An act relating to the Marine Turtle Protection Act; amending s. 921.0022, F.S.; adding the existing offense of possession of any marine turtle species or hatchling, or parts thereof, or nests to level 3 of the offense severity ranking chart for the purpose of increasing sentencing points for conviction of the offense; updating a cross-reference; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.

Page 1 of 12

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2-01499-17

20171228__

316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.

Page 2 of 12

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29	2-01499-17	20171228__	
	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
30	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
31	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
32	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
33			

	2-01499-17	20171228__	
	<u>379.2431</u> <u>(1)(e)6.</u>	3rd	<u>Possessing any marine turtle species or hatchling, or parts thereof, or nest.</u>
34	<u>379.2431</u> <u>(1)(e)7.</u> ~~379.2431~~ ~~(1)(e)6.~~	3rd	Soliciting ~~to commit~~ or conspiring to commit a violation of the Marine Turtle Protection Act.
35	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
36	400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
37	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
38	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially

2-01499-17

20171228__

false/misleading
information.

39

624.401(4)(a)

3rd

Transacting insurance
without a certificate of
authority.

40

624.401(4)(b)1.

3rd

Transacting insurance
without a certificate of
authority; premium
collected less than
\$20,000.

41

626.902(1)(a) &
(b)

3rd

Representing an
unauthorized insurer.

42

697.08

3rd

Equity skimming.

43

790.15(3)

3rd

Person directs another to
discharge firearm from a
vehicle.

44

806.10(1)

3rd

Maliciously injure,
destroy, or interfere with
vehicles or equipment used
in firefighting.

45

806.10(2)

3rd

Interferes with or assaults
firefighter in performance

Page 5 of 12

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2-01499-17

20171228__

of duty.

46

810.09(2)(c)

3rd

Trespass on property other
than structure or
conveyance armed with
firearm or dangerous
weapon.

47

812.014(2)(c)2.

3rd

Grand theft; \$5,000 or more
but less than \$10,000.

48

812.0145(2)(c)

3rd

Theft from person 65 years
of age or older; \$300 or
more but less than \$10,000.

49

815.04(5)(b)

2nd

Computer offense devised to
defraud or obtain property.

50

817.034(4)(a)3.

3rd

Engages in scheme to
defraud (Florida
Communications Fraud Act),
property valued at less
than \$20,000.

51

817.233

3rd

Burning to defraud insurer.

52

817.234
(8)(b) & (c)

3rd

Unlawful solicitation of
persons involved in motor
vehicle accidents.

Page 6 of 12

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	2-01499-17		20171228__
53	817.234(11) (a)	3rd	Insurance fraud; property value less than \$20,000.
54	817.236	3rd	Filing a false motor vehicle insurance application.
55	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
56	817.413(2)	3rd	Sale of used goods as new.
57	817.505(4)	3rd	Patient brokering.
58	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
59	831.28(2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
60	831.29	2nd	Possession of instruments

Page 7 of 12

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	2-01499-17		20171228__
			for counterfeiting driver licenses or identification cards.
61	838.021(3) (b)	3rd	Threatens unlawful harm to public servant.
62	843.19	3rd	Injure, disable, or kill police dog or horse.
63	860.15(3)	3rd	Overcharging for repairs and parts.
64	870.01(2)	3rd	Riot; inciting or encouraging.
65	893.13(1) (a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (3), or (4) drugs).
66	893.13(1) (d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5.,

Page 8 of 12

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2-01499-17

20171228__

(2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3), or
 (4) drugs within 1,000 feet
 of university.

67

893.13(1)(f)2.

2nd

Sell, manufacture, or
 deliver s. 893.03(1)(c),
 (2) (c) 1., (2) (c) 2.,
 (2) (c) 3., (2) (c) 5.,
 (2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3), or
 (4) drugs within 1,000 feet
 of public housing facility.

68

893.13(4)(c)

3rd

Use or hire of minor;
 deliver to minor other
 controlled substances.

69

893.13(6)(a)

3rd

Possession of any
 controlled substance other
 than felony possession of
 cannabis.

70

893.13(7)(a)8.

3rd

Withhold information from
 practitioner regarding
 previous receipt of or
 prescription for a
 controlled substance.

71

Page 9 of 12

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2-01499-17

20171228__

893.13(7)(a)9.

3rd

Obtain or attempt to obtain
 controlled substance by
 fraud, forgery,
 misrepresentation, etc.

72

893.13(7)(a)10.

3rd

Affix false or forged label
 to package of controlled
 substance.

73

893.13(7)(a)11.

3rd

Furnish false or fraudulent
 material information on any
 document or record required
 by chapter 893.

74

893.13(8)(a)1.

3rd

Knowingly assist a patient,
 other person, or owner of
 an animal in obtaining a
 controlled substance
 through deceptive, untrue,
 or fraudulent
 representations in or
 related to the
 practitioner's practice.

75

893.13(8)(a)2.

3rd

Employ a trick or scheme in
 the practitioner's practice
 to assist a patient, other
 person, or owner of an
 animal in obtaining a

Page 10 of 12

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2-01499-17

20171228__

controlled substance.

76

893.13(8)(a)3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

77

893.13(8)(a)4.

3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

78

918.13(1)(a)

3rd

Alter, destroy, or conceal investigation evidence.

79

944.47

3rd

Introduce contraband to correctional facility.

(1)(a)1. & 2.

80

944.47(1)(c)

2nd

Possess contraband while upon the grounds of a correctional institution.

81

985.721

3rd

Escapes from a juvenile facility (secure detention or residential commitment

Page 11 of 12

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2-01499-17

20171228__

facility).

82

83

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

Page 12 of 12

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 1302 (641114)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Pre - K- 12 Education); and Senator Gibson

SUBJECT: Private School Student Participation in Extracurricular Activities

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Benvenisty	Graf	ED	Favorable
2. Sikes	Elwell	AED	Recommend: Fav/CS
3. Sikes	Hansen	AP	Pre-meeting
4. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/SB 1302 revises eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports. Specifically, the bill requires the Florida High School Athletic Association (FHSAA), in cooperation with each district school board, to allow a student attending a private school that is not a member of the FHSAA to participate in interscholastic or intrascholastic sports at a public school that a student could choose to attend pursuant to controlled open enrollment.

The bill does not impact state revenues or expenditures.

The bill takes effect July 1, 2017.

II. Present Situation:

Student Eligibility for Interscholastic and Intrascholastic Extracurricular Activities

Each district school board must establish, through its code of conduct, student eligibility standards and related student disciplinary actions regarding student participation in

interscholastic and intrascholastic extracurricular activities.¹ The code of student conduct must provide that:²

- A student not currently suspended from interscholastic or intrascholastic extracurricular activities, or suspended or expelled from school pursuant to a district school board's suspension or expulsion powers provided in law, is eligible to participate in interscholastic and intrascholastic activities.
- A student may not participate in a sport in a sport if the student participated in the same sport at another school during the school year, unless the student meets criteria specified in law.
- A student's eligibility to participate in an interscholastic or intrascholastic activity may not be affected by recruiting allegations until a final determination has been reached.

While district school boards have the authority and responsibility for student eligibility, the Florida High School Athletics Association (FHSAA) retains jurisdiction over, among other things, membership in the FHSAA and school eligibility.³ The FHSAA bylaws require member schools to comply with all FHSAA bylaws and administrative policies and procedures.⁴ Each member school must annually adopt the bylaws as the rules governing its interscholastic athletic programs, as a condition to membership in the FHSAA.⁵ Such adoption acts as a contract between FHSAA and the member school.⁶ Member schools that violate the bylaws are subject to disciplinary action determined to be appropriate by the FHSAA.⁷ To be eligible for participation in interscholastic extracurricular activities under the FHSAA, a high school student⁸ must:⁹

- Maintain a grade point average (GPA) of 2.0 or above on a 4.0 scale, or its equivalent, in the previous semester preceding participation or a cumulative GPA of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required for high school graduation.¹⁰
- Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student's parents, if the student's cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required for high school graduation.¹¹ At a minimum, the contract must require that a student attend summer schools, or its graded equivalent, between grades 9 and 10 or grades 10 and 11 as necessary.

¹ Section 1006.195(1)(a), F.S.

² Section 1006.195(1), F.S.

³ Section 1006.195(2)(a), F.S. The FHSAA retains jurisdiction over recruiting prohibitions and violations, student medical evaluations, investigations, sanctions for coaches, forfeiture of contests, student concussions or head injuries, the sports medical advisory committee, general operational provisions of the FHSAA. *Id.*

⁴ Bylaws 2.6 (compliance with rules), 3.3.1 (conditions of membership), and 3.5, (obligations of membership). Florida High School Athletic Association, 2016-2017 FHSAA Bylaws, available at https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf.

⁵ Bylaw 3.3.1(d). Florida High School Athletic Association, 2016-2017 FHSAA Bylaws, available at https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf.

⁶ *Sult v. Gilbert*, 148 Fla. 31, 35 (1941).

⁷ *Sult*, 148 Fla. at 35; bylaw 2.6, Florida High School Athletic Association, 2016-2017 FHSAA Bylaws, available at https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf.

⁸ For purposes of athletics in public K-12 schools, high school includes grade six through 12. Section 1006.20(1), F.S.

⁹ Section 1006.15(3)(a), F.S.

¹⁰ Sections 1002.3105(5) and 1003.4282, F.S.

¹¹ *Id.*

- Earn a cumulative GPA of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required for graduation¹² during his or her junior or senior year.
- Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies described in law. The eligibility of a student who is convicted of, or found to have committed, a felony or delinquent act that would have been a felony if committed by an adult is governed by district school board policy.

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at the public within the student's attendance zone if the private school where the student is enrolled is not a member of the FHSAA and has an enrollment of less than 125 students (non-FHSAA member private school).¹³ The FHSAA and district school board must adopt guidelines that establish:¹⁴

- A deadline for each sport by which the private school student's parents must register with the public school in writing their intent for their child to participate at that school in the sport.
- Requirements for a private school student to participate, including, but not limited to, meeting the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to other students participating in interscholastic or intrascholastic sports at a public school or FHSAA member private school.

Controlled Open Enrollment

Beginning with the 2017-2018 school year, a parent whose child is not subject to a current expulsion or suspension order may seek enrollment in and transport his or her child to any public school in the state, including a charter school, which has not reached capacity, as determined by the school district or charter school. The school district or charter school shall accept and report the student for purposes of funding through the Florida Education Finance Program (FEFP). The school district or charter school may provide student transportation at their discretion.¹⁵

Each school must provide preferential treatment in its controlled open enrollment process to:

- Dependent children of active duty military personnel who moved as a result of military orders
- Children relocated due to foster care placement in a different school zone
- Children relocated due to a court ordered change in custody as a result of separation or divorce, or the serious illness or death of a parent
- Students residing in the school district.¹⁶

¹² *Id.*

¹³ Section 1006.15(8), F.S. A private school that has a student who wishes to participate in a public school athletic program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request by the FHSAA; *see also* s. 1006.15(3)(c), (d), and (e), F.S.; bylaw 9.2.2.4, Florida High School Athletic Association, 2016-2017 FHSAA Bylaws, available at https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf.

¹⁴ Section 1006.15(8), F.S.

¹⁵ Section 1002.31(2), F.S.

¹⁶ *Id.*

Each charter school may provide preferential treatment in the controlled open enrollment process to the enrollment limitations consistent with law¹⁷ and its charter contract. The charter school must post the application process required to participate in controlled open enrollment on its website.

A student residing in the school district may not be displaced by a student from another district. A student who transfers may remain at the school until the student completes the highest grade level offered.¹⁸

Each district school board must post on its website the application process required to participate in controlled open enrollment. The process must:

- Adhere to federal desegregation requirements.
- Allow parents to declare school preferences, including placement of siblings within the same school.
- Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.
- Afford parents of students in multiple session schools preferred access to controlled open enrollment.
- Maintain socioeconomic, demographic, and racial balance.
- Address the availability of transportation.
- Maintain existing academic eligibility criteria for public school choice programs.
- Identify schools that have not reached capacity, as determined by the school district.
- Ensure that each district school board adopts a policy to provide preferential treatment.¹⁹

A school may not delay eligibility or prevent a student participating in controlled open enrollment from being immediately eligible to participate in extracurricular activities. A student may not participate in a sport if the student participated in the same sport in another school during the school year unless the student:

- Is a dependent of active duty military personnel whose move resulted from military orders;
- Relocated due to a foster care placement in a different school zone;
- Relocated due to a court-ordered change in custody; or
- Is authorized for good cause in district or charter school policy.²⁰

III. Effect of Proposed Changes:

The bill amends s. 1006.15, F.S., to revise student eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports. Specifically, the bill requires the Florida High School Athletic Association (FHSAA), in cooperation with each district school board, to allow a student attending a private school that is not a member of the FHSAA to participate in interscholastic or intrascholastic sports at a public school that a student could choose to attend pursuant to controlled open enrollment. Accordingly, private school

¹⁷ See Section 1002.33(10), F.S.

¹⁸ Section 1002.31(2), F.S.

¹⁹ Section 1002.31(3), F.S.

²⁰ Section 1002.31(6), F.S.

students are provided greater choice for participating in interscholastic or intrascholastic activities.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1006.15 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Pre-K-12 Education on April 18, 2017:

The committee substitute clarifies that the provision regarding participation in interscholastic or intrascholastic sports at a public school must be in accordance with the district's controlled open enrollment process.

- B. Amendments:

None.



663834

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

Senate Amendment

Delete lines 24 - 26
and insert:
district school board attendance area policies, or which the
student could choose to attend pursuant to the district's
controlled open enrollment process under s. 1002.31, ~~that is~~



641114

576-04051-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Pre-K - 12 Education)

A bill to be entitled

An act relating to private school student participation in extracurricular activities; amending s. 1006.15, F.S.; revising the eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports at specified public schools; providing an effective date.

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

Section 1. Paragraph (a) of subsection (8) of section 1006.15, Florida Statutes, is amended to read:

1006.15 Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation.—

(8) (a) The Florida High School Athletic Association (FHSAA), in cooperation with each district school board, shall facilitate a program in which a middle school or high school student who attends a private school shall be eligible to participate in an interscholastic or intrascholastic sport at a public high school, a public middle school, or a 6-12 public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to the district's controlled open enrollment process under s. 1002.31 ~~that is zoned for the physical address at which the student resides~~ if:



641114

576-04051-17

1. The private school in which the student is enrolled is not a member of the FHSAA.

2. The private school student meets the guidelines for the conduct of the program established by the FHSAA's board of directors and the district school board. At a minimum, such guidelines shall provide:

a. A deadline for each sport by which the private school student's parents must register with the public school in writing their intent for their child to participate at that school in the sport.

b. Requirements for a private school student to participate, including, but not limited to, meeting the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to other students participating in interscholastic or intrascholastic sports at a public school or FHSAA member private school.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 1302

INTRODUCER: Senator Gibson

SUBJECT: Private School Student Participation in Extracurricular Activities

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Benvenisty	Graf	ED	Favorable
2. Sikes	Elwell	AED	Recommend: Fav/CS
3. Sikes	Hansen	AP	Pre-meeting
4. _____	_____	RC	_____

I. Summary:

SB 1302 revises eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports. Specifically, the bill requires the Florida High School Athletic Association (FHSAA), in cooperation with each district school board, to allow a student attending a private school that is not a member of the FHSAA to participate in interscholastic or intrascholastic sports at a public school that a student could choose to attend pursuant to controlled open enrollment.

The bill does not impact state revenues or expenditures.

The bill takes effect July 1, 2017.

II. Present Situation:

Student Eligibility for Interscholastic and Intrascholastic Extracurricular Activities

Each district school board must establish, through its code of conduct, student eligibility standards and related student disciplinary actions regarding student participation in interscholastic and intrascholastic extracurricular activities.¹ The code of student conduct must provide that:²

- A student not currently suspended from interscholastic or intrascholastic extracurricular activities, or suspended or expelled from school pursuant to a district school board's suspension or expulsion powers provided in law, is eligible to participate in interscholastic and intrascholastic activities.

¹ Section 1006.195(1)(a), F.S.

² Section 1006.195(1), F.S.

- A student may not participate in a sport if the student participated in the same sport at another school during the school year, unless the student meets criteria specified in law.
- A student's eligibility to participate in an interscholastic or intrascholastic activity may not be affected by recruiting allegations until a final determination has been reached.

While district school boards have the authority and responsibility for student eligibility, the Florida High School Athletics Association (FHSAA) retains jurisdiction over, among other things, membership in the FHSAA and school eligibility.³ The FHSAA bylaws require member schools to comply with all FHSAA bylaws and administrative policies and procedures.⁴ Each member school must annually adopt the bylaws as the rules governing its interscholastic athletic programs, as a condition to membership in the FHSAA.⁵ Such adoption acts as a contract between FHSAA and the member school.⁶ Member schools that violate the bylaws are subject to disciplinary action determined to be appropriate by the FHSAA.⁷ To be eligible for participation in interscholastic extracurricular activities under the FHSAA, a high school student⁸ must:⁹

- Maintain a grade point average (GPA) of 2.0 or above on a 4.0 scale, or its equivalent, in the previous semester preceding participation or a cumulative GPA of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required for high school graduation.¹⁰
- Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student's parents, if the student's cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required for high school graduation.¹¹ At a minimum, the contract must require that a student attend summer schools, or its graded equivalent, between grades 9 and 10 or grades 10 and 11 as necessary.
- Earn a cumulative GPA of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required for graduation¹² during his or her junior or senior year.
- Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies described in law. The eligibility of a student who is convicted of, or found to have committed, a felony or delinquent act that would have been a felony if committed by an adult is governed by district school board policy.

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at the public within the student's attendance zone if the private school

³ Section 1006.195(2)(a), F.S. The FHSAA retains jurisdiction over recruiting prohibitions and violations, student medical evaluations, investigations, sanctions for coaches, forfeiture of contests, student concussions or head injuries, the sports medical advisory committee, general operational provisions of the FHSAA. *Id.*

⁴ Bylaws 2.6 (compliance with rules), 3.3.1 (conditions of membership), and 3.5, (obligations of membership). Florida High School Athletic Association, 2016-2017 FHSAA Bylaws, available at https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf.

⁵ Bylaw 3.3.1(d). Florida High School Athletic Association, 2016-2017 FHSAA Bylaws, available at https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf.

⁶ *Sult v. Gilbert*, 148 Fla. 31, 35 (1941).

⁷ *Sult*, 148 Fla. at 35; bylaw 2.6, Florida High School Athletic Association, 2016-2017 FHSAA Bylaws, available at https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf.

⁸ For purposes of athletics in public K-12 schools, high school includes grade six through 12. Section 1006.20(1), F.S.

⁹ Section 1006.15(3)(a), F.S.

¹⁰ Sections 1002.3105(5) and 1003.4282, F.S.

¹¹ *Id.*

¹² *Id.*

where the student is enrolled is not a member of the FHSAA and has an enrollment of less than 125 students (non-FHSAA member private school).¹³ The FHSAA and district school board must adopt guidelines that establish:¹⁴

- A deadline for each sport by which the private school student's parents must register with the public school in writing their intent for their child to participate at that school in the sport.
- Requirements for a private school student to participate, including, but not limited to, meeting the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to other students participating in interscholastic or intrascholastic sports at a public school or FHSAA member private school.

Controlled Open Enrollment

Beginning with the 2017-2018 school year, a parent whose child is not subject to a current expulsion or suspension order may seek enrollment in and transport his or her child to any public school in the state, including a charter school, which has not reached capacity, as determined by the school district or charter school. The school district or charter school shall accept and report the student for purposes of funding through the Florida Education Finance Program (FEFP). The school district or charter school may provide student transportation at their discretion.¹⁵

Each school must provide preferential treatment in its controlled open enrollment process to:

- Dependent children of active duty military personnel who moved as a result of military orders
- Children relocated due to foster care placement in a different school zone
- Children relocated due to a court ordered change in custody as a result of separation or divorce, or the serious illness or death of a parent
- Students residing in the school district.¹⁶

Each charter school may provide preferential treatment in the controlled open enrollment process to the enrollment limitations consistent with law¹⁷ and its charter contract. The charter school must post the application process required to participate in controlled open enrollment on its website.

A student residing in the school district may not be displaced by a student from another district. A student who transfers may remain at the school until the student completes the highest grade level offered.¹⁸

¹³ Section 1006.15(8), F.S. A private school that has a student who wishes to participate in a public school athletic program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request by the FHSAA; *see also* s. 1006.15(3)(c), (d), and (e), F.S.; bylaw 9.2.2.4, Florida High School Athletic Association, *2016-2017 FHSAA Bylaws*, available at https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf.

¹⁴ Section 1006.15(8), F.S.

¹⁵ Section 1002.31(2), F.S.

¹⁶ *Id.*

¹⁷ *See* Section 1002.33(10), F.S.

¹⁸ Section 1002.31(2), F.S.

Each district school board must post on its website the application process required to participate in controlled open enrollment. The process must:

- Adhere to federal desegregation requirements.
- Allow parents to declare school preferences, including placement of siblings within the same school.
- Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.
- Afford parents of students in multiple session schools preferred access to controlled open enrollment.
- Maintain socioeconomic, demographic, and racial balance.
- Address the availability of transportation.
- Maintain existing academic eligibility criteria for public school choice programs.
- Identify schools that have not reached capacity, as determined by the school district.
- Ensure that each district school board adopts a policy to provide preferential treatment.¹⁹

A school may not delay eligibility or prevent a student participating in controlled open enrollment from being immediately eligible to participate in extracurricular activities. A student may not participate in a sport if the student participated in the same sport in another school during the school year unless the student:

- Is a dependent of active duty military personnel whose move resulted from military orders;
- Relocated due to a foster care placement in a different school zone;
- Relocated due to a court-ordered change in custody; or
- Is authorized for good cause in district or charter school policy.²⁰

III. Effect of Proposed Changes:

The bill revises student eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports. Specifically, the bill requires the Florida High School Athletic Association (FHSAA), in cooperation with each district school board, to allow a student attending a private school that is not a member of the FHSAA to participate in interscholastic or intrascholastic sports at a public school that a student could choose to attend pursuant to controlled open enrollment. Accordingly, private school students are provided greater choice for participating in interscholastic or intrascholastic activities.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁹ Section 1002.31(3), F.S.

²⁰ Section 1002.31(6), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1006.15 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Gibson

6-01135A-17

20171302__

1 A bill to be entitled
 2 An act relating to private school student
 3 participation in extracurricular activities; amending
 4 s. 1006.15, F.S.; revising the eligibility
 5 requirements for certain private school students to
 6 participate in interscholastic or intrascholastic
 7 sports at specified public schools; providing an
 8 effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (a) of subsection (8) of section
 13 1006.15, Florida Statutes, is amended to read:
 14 1006.15 Student standards for participation in
 15 interscholastic and intrascholastic extracurricular student
 16 activities; regulation.—
 17 (8) (a) The Florida High School Athletic Association
 18 (FHSAA), in cooperation with each district school board, shall
 19 facilitate a program in which a middle school or high school
 20 student who attends a private school shall be eligible to
 21 participate in an interscholastic or intrascholastic sport at a
 22 public high school, a public middle school, or a 6-12 public
 23 school to which the student would be assigned according to
 24 district school board attendance area policies or which the
 25 student could choose to attend pursuant to s. 1002.31 ~~that is~~
 26 ~~zoned for the physical address at which the student resides~~ if:
 27 1. The private school in which the student is enrolled is
 28 not a member of the FHSAA.
 29 2. The private school student meets the guidelines for the

Page 1 of 2

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

6-01135A-17

20171302__

30 conduct of the program established by the FHSAA's board of
 31 directors and the district school board. At a minimum, such
 32 guidelines shall provide:
 33 a. A deadline for each sport by which the private school
 34 student's parents must register with the public school in
 35 writing their intent for their child to participate at that
 36 school in the sport.
 37 b. Requirements for a private school student to
 38 participate, including, but not limited to, meeting the same
 39 standards of eligibility, acceptance, behavior, educational
 40 progress, and performance which apply to other students
 41 participating in interscholastic or intrascholastic sports at a
 42 public school or FHSAA member private school.
 43 Section 2. This act shall take effect July 1, 2017.

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1306

INTRODUCER: Commerce and Tourism Committee and Senator Montford

SUBJECT: Economic Programs

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	Fav/CS
2.	Pitts	Hansen	AP	Pre-meeting
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1306 establishes the Florida Sports Foundation as a direct-support organization within the Department of Economic Opportunity (DEO). Additionally the bill updates law to reflect the foundation's current operations and organizational structure. Currently, the foundation serves as the Enterprise Florida, Inc. (EFI), Division of Sports Industry Development.

The bill requires the Office of Program Policy and Government Accountability to report on the Microfinance Loan Program and the Microfinance Guarantee Program by January 15, 2018.

The bill will increase the Department of Highway Safety and Motor Vehicles' expenditures minimally for the costs of shifting the administration of the Florida Sports Foundation's license plates from EFI to DEO.

The bill is effective July 1, 2017.

II. Present Situation:

Florida Sports Foundation

The Florida Sports Foundation (FSF) was a direct-support organization of the Office of Tourism Trade and Economic Development, prior to the governmental reorganization that created the

Department of Economic Opportunity (DEO) and restructured Enterprise Florida, Inc., (EFI).¹ The FSF serves as the official sports promotion and development organization for the state and currently is housed within EFI as the Division of Sports Industry Development. The FSF's mission is to:

- Assist communities in the state with securing, hosting and retaining, sporting events that generate economic impact and sports-tourism for the state;
- Provide Floridians opportunities to participate in the Sunshine State Games and Florida Senior Games;
- Serve as the state's leading source for sports-tourism research and information;
- Assist in the promotion of targeted leisure sport industries in the state; and
- Assist national and state governing bodies to promote amateur sports development through the Sunshine State Games and hosting events in the state.

The primary activities of the FSF are operating a grant program that offers grants to local and regional sports commissions to assist in conducting professional, college, and amateur sporting events and sponsoring the Florida Senior Games and the Sunshine State Games. In its most recent report, the Legislature's Office of Economic and Demographic Research reported a return on investment of 5.61 for the FSF grant program.² The FSF operates on an annual appropriation of less than \$5 million. A majority of the appropriation is money from specialty license plate revenues, but the FSF also receives private contributions.

The FSF board of directors consists of 20 members representing various sports industry interests across the state. Entities represented include sports commissions, professional sports franchises, and private companies.³

Microfinance Programs

The state has two separate microfinance programs, the Microfinance Loan Program⁴ and the Microfinance Guarantee Program.⁵ The loan program is designed to make short-term, fixed-rate microloans for business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. The intent of the program is to enable entrepreneurs and small businesses to access private financing after completing the program. The guarantee program is intended to stimulate access to credit for entrepreneurs and small businesses by providing targeted guarantees to their loans. These programs are currently not included in the list of economic development programs that must be analyzed by EDR and OPPAGA.

¹ Chapter 2011-142, L.O.F.

² Office of Economic and Demographic Research, *Return on Investment for the Florida Sports Foundation Grants and Related Programs*, Jan 6, 2015. Available at: <http://edr.state.fl.us/Content/returnoninvestment/SportsGrantsandPrograms.pdf>, (last visited April 10, 2017)(on file with the Commerce and Tourism Committee).

³ See generally, *Florida Sports Foundation Board of Directors*, available at <http://www.flasports.com/about-us/boardofdirectors/>, (last visited April 12, 2017).

⁴ Section 288.9934, F.S.

⁵ Section 288.9935, F.S.

III. Effect of Proposed Changes:

Florida Sports Foundation

The bill moves the Florida Sports Foundation (FSF) from EFI to the DEO. To that end, the bill revives, readopts, and amends s. 288.1229, F.S. to reflect current FSF operations by:

- Requiring the FSF board of directors to include 20 members appointed by the Governor and include:
 - Ten members representing Major League Baseball, the National Basketball Association, the National Football League, the Arena Football League, the National Hockey League, and Major League Soccer franchises in the state;
 - Two representatives of the Florida Sports Commission;
 - One representative of the boating and fishing industries;
 - One representative of the golf industry;
 - One representative of Major League Baseball spring training;
 - One representative of the auto racing industry; and
 - Four-at-large appointments;
- Permitting the FSF access to department resources approved by the DEO;
- Directing the FSF to administer the Florida Senior Games; and
- Removing dated language from the section.

Additionally, the bill amends statutory responsibilities for the DEO to contract with the FSF to promote the sports industry and participation by amateurs in athletic competitions. The bill requires the FSF to operate under contract with DEO, as a direct-support organization, by July 1, 2017.

The bill clarifies that the FSF will serve as the entity to oversee the annual use fees raised from various sports-related specialty license plates, instead of EFI. The bill removes a requirement that certain proceeds from the sale of professional sports team license plates are to be used to promote education programs related to physical activity and nutrition, in partnership with the Department of Education and the Department of Health.

Required Reporting on Microfinance Programs

The bill amends s. 288.9377, F.S., to require OPPAGA, in addition to EDR, to evaluate the Microfinance Loan Program and Microfinance Guarantee Program. Because multiple reports (e.g., the reports described above) are due January 1, 2018, the bill changes the submission date for these reports to January 15, 2018. This report is not included in the recurring review cycle and s. 288.9937, F.S., expires January 31, 2018.

Effective Date

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

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have an insignificant fiscal impact on the Department of Highway Safety and Motor Vehicles related to the expense the department will incur for shifting the administration of license plates from EFI to the FSF.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not address the removal of EFI responsibilities related to sports development in sections 288.92 and 288.11621, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.60, and 320.08058.

This bill revives, readopts, and amends section 288.1229 of the Florida Statutes.

IX. Additional Information:

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

CS by Commerce and Tourism April 17, 2017:

The CS requires the Office of Program Policy and Government Accountability to report on the Microfinance Loan Program and the Microfinance Guarantee Program by January 15, 2018.

- B. **Amendments:**

None.



561354

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (x) is added to subsection (3) of
section 11.45, Florida Statutes, to read:

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

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor
General may, pursuant to his or her own authority, or at the
direction of the Legislative Auditing Committee, conduct audits



561354

or other engagements as determined appropriate by the Auditor General of:

(x) The Florida Tourism Industry Marketing Corporation.

Section 2. (1) The Florida Tourism Industry Marketing Corporation may enter into an agreement with the Department of Economic Opportunity to continue any existing program, activity, duty, or function necessary for the operation of the corporation.

(2) Any funds held in trust which were donated to or earned by the Florida Tourism Industry Marketing Corporation may be used by the corporation for the original purposes for which the funds were received.

(3) It is the intent of the Legislature that the changes made by this act be accomplished with minimal disruption of services provided to the public and with minimal disruption to employees of any organization.

Section 3. Section 272.11, Florida Statutes, is amended to read:

272.11 Capitol information center.—The Department of Economic Opportunity ~~Enterprise Florida, Inc.,~~ shall establish, maintain, and operate a Capitol information center somewhere within the area of the Capitol Center and employ personnel or enter into contracts to maintain same.

Section 4. Subsections (1) and (3) of section 288.017, Florida Statutes, are amended to read:

288.017 Cooperative advertising matching grants program.—

(1) The department ~~Enterprise Florida, Inc.,~~ is authorized to establish a cooperative advertising matching grants program and, pursuant thereto, to make expenditures and enter into



561354

contracts with local governments and nonprofit corporations for the purpose of publicizing the tourism advantages of the state. The department, ~~based on recommendations from Enterprise Florida, Inc.,~~ shall have final approval of grants awarded through this program. The department ~~Enterprise Florida, Inc.,~~ may contract with VISIT Florida ~~its direct-support organization~~ to administer the program.

(3) The department ~~Enterprise Florida, Inc.,~~ shall conduct an annual competitive selection process for the award of grants under the program. In determining its recommendations for the grant awards, the department ~~commission~~ shall consider the demonstrated need of the applicant for advertising assistance, the feasibility and projected benefit of the applicant's proposal, the amount of nonstate funds that will be leveraged, and such other criteria as the department ~~commission~~ deems appropriate. ~~In evaluating grant applications, the department shall consider recommendations from Enterprise Florida, Inc.~~ The department, ~~however,~~ has final approval authority for any grant under this section.

Section 5. Section 288.1226, Florida Statutes, is amended to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(1) DEFINITIONS.—For the purposes of this section, the term "corporation" means the Florida Tourism Industry Marketing Corporation.

(2) ESTABLISHMENT.—The Florida Tourism Industry Marketing Corporation is a direct-support organization of the Department of Economic Opportunity ~~Enterprise Florida, Inc.~~



561354

(a) The Florida Tourism Industry Marketing Corporation is a corporation not for profit, as defined in s. 501(c)(6) of the Internal Revenue Code of 1986, as amended, that is incorporated under the provisions of chapter 617 and approved by the Department of State.

(b) The corporation is organized and operated exclusively to request, receive, hold, invest, and administer property and to manage and make expenditures for the operation of the activities, services, functions, and programs of this state which relate to the statewide, national, and international promotion and marketing of tourism.

(c) 1. The corporation is not an agency for the purposes of chapters 120 and 216, and 287; ss. 255.21, 255.25, and 255.254, relating to leasing of buildings; ss. 283.33 and 283.35, relating to bids for printing; s. 215.31; and parts I, II, and IV-VIII of chapter 112. However, the corporation shall comply with the per diem and travel expense provisions of s. 112.061.

2.a. The corporation is an agency for purposes of chapter 287.

b. The officers and members of the board of directors of the corporation are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2).

c. For purposes of ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2), the officers or members of the board of directors of the corporation are public officers or employees of an agency, respectively, and the corporation is an agency.

3. It is not a violation of s. 112.3143(2) or (4) for the officers or members of the board of directors of the corporation



561354

to:

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

b. Participate in the establishment or calculation of payments related to the private match requirements of subsection (6). The officer or member must file an annual disclosure describing the nature of his or her interests or the interests of his or her principals, including corporate parents and subsidiaries of his or her principal, in the private match requirements. This annual disclosure requirement satisfies the disclosure requirement of s. 112.3143(4). This disclosure must be placed on the corporation's website or included in the minutes of each meeting of the corporation's board of directors at which the private match requirements are discussed or voted upon.

(d) The corporation is subject to the provisions of chapter 119, relating to public meetings, and those provisions of chapter 286 relating to public meetings and records.

(3) USE OF PROPERTY.—The Department of Economic Opportunity Enterprise Florida, Inc.:

(a) Is authorized to permit the use of property and facilities of the department ~~Enterprise Florida, Inc.~~, by the corporation, subject to the provisions of this section.

(b) Shall prescribe conditions with which the corporation must comply in order to use property and facilities of the department ~~Enterprise Florida, Inc.~~. Such conditions shall provide for budget and audit review and for oversight by the department ~~Enterprise Florida, Inc.~~.



561354

(c) May not permit the use of property and facilities of the department ~~Enterprise Florida, Inc.~~, if the corporation does not provide equal employment opportunities to all persons, regardless of race, color, national origin, sex, age, or religion.

(4) BOARD OF DIRECTORS.—The board of directors of the corporation shall be composed of 31 tourism-industry-related members, appointed by the corporation ~~Enterprise Florida, Inc.~~, in conjunction with the department. Board members shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061. Such expenses must be paid out of funds of the corporation.

(a) The board shall consist of 16 members, appointed in such a manner as to equitably represent all geographic areas of the state, with no fewer than two members from any of the following regions:

1. Region 1, composed of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Counties.

2. Region 2, composed of Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Nassau, Putnam, St. Johns, Suwannee, Taylor, and Union Counties.

3. Region 3, composed of Brevard, Indian River, Lake, Okeechobee, Orange, Osceola, St. Lucie, Seminole, Sumter, and Volusia Counties.

4. Region 4, composed of Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.

5. Region 5, composed of Charlotte, Collier, DeSoto,



561354

Glades, Hardee, Hendry, Highlands, and Lee Counties.

6. Region 6, composed of Broward, Martin, Miami-Dade, Monroe, and Palm Beach Counties.

(b) The 15 additional tourism-industry-related members shall include 1 representative from the statewide rental car industry; 7 representatives from tourist-related statewide associations, including those that represent hotels, campgrounds, county destination marketing organizations, museums, restaurants, retail, and attractions; 3 representatives from county destination marketing organizations; 1 representative from the cruise industry; 1 representative from an automobile and travel services membership organization that has at least 2.8 million members in Florida; 1 representative from the airline industry; and 1 representative from the space tourism industry, who will each serve for a term of 2 years.

(5) POWERS AND DUTIES.—The corporation, in the performance of its duties:

(a) May make and enter into contracts and assume such other functions as are necessary to carry out the provisions of the 4-year marketing plan required by s. 288.923, and the corporation's contract with the department that Enterprise Florida, Inc., ~~which~~ are not inconsistent with this or any other provision of law. A proposed contract with a total cost of \$750,000 or more is subject to the notice and review procedures of s. 216.177. If the chair or vice chair of the Legislative Budget Commission, the President of the Senate, or the Speaker of the House of Representatives timely advises the corporation in writing that such proposed contract is contrary to legislative policy and intent, the corporation may not execute



561354

such proposed contract. The corporation may not enter into multiple related contracts to avoid the requirements of this paragraph.

(b) May develop a program to provide incentives and to attract and recognize those entities which make significant financial and promotional contributions towards the expanded tourism promotion activities of the corporation.

(c) May establish a cooperative marketing program with other public and private entities which allows the use of the VISIT Florida logo in tourism promotion campaigns which meet the standards of the department ~~Enterprise Florida, Inc.~~, for which the corporation may charge a reasonable fee.

(d) May sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person.

(e) May adopt, use, and alter a common corporate seal. However, such seal must always contain the words "corporation not for profit."

(f) Shall elect or appoint such officers and agents as its affairs shall require and allow them reasonable compensation. However, each officer or agent, including the president and chief executive officer of the corporation, may not receive compensation, public or private, that exceeds \$130,000 per year.

(g) Shall hire and establish salaries and personnel and employee benefit programs for such permanent and temporary employees as are necessary to carry out the provisions of the 4-year marketing plan and the corporation's contract with the department that ~~Enterprise Florida, Inc., which~~ are not inconsistent with this or any other provision of law. However,



561354

an employee may not receive compensation, public or private, that exceeds \$130,000 per year. Any retirement, life insurance, or health insurance benefits provided to employees of the corporation may not exceed the value of such benefits provided to employees of the corporation as of January 1, 2017. Any public or private payments of performance bonuses or severance pay to employees of the corporation are prohibited unless specifically authorized by law. The Governor shall review and approve or deny requests for out-of-state or international travel by employees and board members of the corporation and individuals whose travel will be paid for by the corporation, regardless of the source of the funds used for such travel.

(h) Shall appoint a president and chief executive officer of the corporation who shall serve subject to confirmation by the Senate ~~provide staff support to the Division of Tourism Promotion of Enterprise Florida, Inc. The president and chief executive officer of the Florida Tourism Industry Marketing Corporation shall serve without compensation as the director of the division.~~

(i) May adopt, change, amend, and repeal bylaws, not inconsistent with law or its articles of incorporation, for the administration of the provisions of the 4-year marketing plan and the corporation's contract with the department ~~Enterprise Florida, Inc.~~

(j) May conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States or any foreign country. When ~~Where~~ feasible, appropriate, and recommended by the 4-year marketing plan ~~developed by the~~



561354

~~Division of Tourism Promotion of Enterprise Florida, Inc.~~, the corporation may collocate the programs of foreign tourism offices in cooperation with any foreign office operated by any agency of this state.

(k) May appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, state, or federal government.

(l) May request or accept any grant, payment, or gift, of funds or property made by this state or by the United States or any department or agency thereof or by any individual, firm, corporation, municipality, county, or organization for any or all of the purposes of the 4-year marketing plan and the corporation's contract with the department ~~Enterprise Florida, Inc.~~, that are not inconsistent with this or any other provision of law. Such funds shall be deposited in a bank account established by the corporation's board of directors. The corporation may expend such funds in accordance with the terms and conditions of any such grant, payment, or gift, in the pursuit of its administration or in support of the programs it administers. The corporation shall separately account for the public funds and the private funds deposited into the corporation's bank account.

(m) Shall establish a plan for participation in the corporation which will provide additional funding for the administration and duties of the corporation.

(n) In the performance of its duties, may undertake, or contract for, marketing projects and advertising research projects.

(o) In addition to any indemnification available under



561354

chapter 617, ~~the corporation~~ may indemnify, and purchase and maintain insurance on behalf of, directors, officers, and employees of the corporation against any personal liability or accountability by reason of actions taken while acting within the scope of their authority.

(p) May not create or establish any other entity, corporation, or direct-support organization.

(q) May not expend funds, public or private, that directly or indirectly benefit only one company, corporation, or business entity.

(6) MATCHING REQUIREMENTS.—

(a) A one-to-one match is required of private to public contributions to the corporation. Public contributions include all state appropriations to the corporation.

(b) For purposes of calculating the required one-to-one match, the corporation shall receive matching private contributions and assign such contributions to one of two private match categories. The corporation shall maintain documentation of such categorized contributions on file and make such documentation available for inspection upon reasonable notice during its regular business hours. Contribution details shall be included in the quarterly reports required under subsection (8). The private match categories are:

1. Direct cash contributions from private sources, which include, but are not limited to, cash derived from strategic alliances, contributions of stocks and bonds, and partnership contributions.

2. Fees for services, which include, but are not limited to, event participation, research, and brochure placement and



561354

transparencies.

Contributions from a government entity or from an entity that received more than 50 percent of its revenue in the previous fiscal year from public sources, including revenue derived from taxes, fees, or other government revenues, are not considered private contributions for purposes of calculating the required one-to-one match.

(c) If the corporation fails to meet the one-to-one match requirements of this subsection, the corporation shall revert all unmatched public contributions to the state treasury by June 30 of each fiscal year.

(7) ~~(6)~~ ANNUAL AUDIT.—The corporation shall provide for an annual financial audit in accordance with s. 215.981. The annual audit report shall be submitted to the Auditor General; the Office of Program Policy Analysis and Government Accountability; ~~Enterprise Florida, Inc.;~~ and the department for review. The Office of Program Policy Analysis and Government Accountability; ~~Enterprise Florida, Inc.;~~ the department; and the Auditor General have the authority to require and receive from the corporation or from its independent auditor any detail or supplemental data relative to the operation of the corporation. The department shall annually certify whether the corporation is operating in a manner and achieving the objectives that are consistent with the policies and goals of the department ~~Enterprise Florida, Inc.,~~ and its long-range marketing plan. The identity of a donor or prospective donor to the corporation who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the



561354

provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.

(8)-(7) REPORT.—The corporation shall provide a quarterly report to the department ~~Enterprise Florida, Inc.~~, which shall:

(a) Measure the current vitality of the visitor industry of this state as compared to the vitality of such industry for the year to date and for comparable quarters of past years. Indicators of vitality shall be determined by the department ~~Enterprise Florida, Inc.~~, and shall include, but not be limited to, estimated visitor count and party size, length of stay, average expenditure per party, and visitor origin and destination.

(b) Provide detailed, unaudited financial statements of sources and uses of public and private funds.

(c) Measure progress towards annual goals and objectives set forth in the 4-year marketing plan.

(d) Review all pertinent research findings.

(e) Provide other measures of accountability as requested by the department ~~Enterprise Florida, Inc.~~

The corporation must take all steps necessary to provide all data that is used to develop the report, including source data, to the Office of Economic and Demographic Research.

(9)-(8) PROHIBITIONS; CORPORATE FUNDS; GIFTS.—
Notwithstanding per diem and travel expenses authorized pursuant s. 112.061, funds of the corporation may not be expended for food, beverages, lodging, entertainment, or gifts for employees of the corporation, board members of the corporation, or



561354

employees of a tourist or economic development entity that receives revenue from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305. An employee or board member of the corporation may not accept or receive food, beverages, lodging, entertainment, or gifts from a tourist or economic development entity that receives revenue from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305 ~~PUBLIC RECORDS EXEMPTION.~~

~~The identity of any person who responds to a marketing project or advertising research project conducted by the corporation in the performance of its duties on behalf of Enterprise Florida, Inc., or trade secrets as defined by s. 812.081 obtained pursuant to such activities, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.~~

(10) LODGING EXPENSES.—Lodging expenses for an employee of the corporation may not exceed \$150 per day, excluding taxes. However, an employee of the corporation may expend his or her own funds for any lodging expenses in excess of \$150 per day.

(11) RELEASE OF APPROPRIATIONS.—Notwithstanding s. 216.192, and in accordance with s. 216.351, the annual plan for release of appropriations for the Department of Economic Opportunity shall be quarterly. On July 1 of each fiscal year, 25 percent of the original operating budget of the corporation shall be released. The balance of the appropriation shall be held in reserve. By August 15 of each fiscal year, the Department of Economic Opportunity shall submit a proposed operating budget



561354

for the corporation including amounts to be expended on
advertising, events, other operating capital outlay, and
salaries and benefits for each employee to the Legislative
Budget Commission. Upon approval of the plan by the Legislative
Budget Commission, the remainder of the operating budget for the
corporation shall be released pursuant to this subsection.

(12) TRANSPARENCY.—

(a) The corporation is a governmental entity as defined in
s. 215.985 and, therefore, is subject to the Transparency
Florida Act.

(b) A contract entered into between the corporation and any
other entity that received more than 50 percent of its revenue
in the previous fiscal year from funds derived from a tax
imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305
shall include:

1. The purpose of the contract.
2. Specific performance standards and responsibilities for
each entity.
3. A detailed project or contract budget, if applicable.
4. The value of any services provided.
5. The salaries of all employees and board members of the
entity and the projected travel and entertainment expenses for
such employees and board members.

(c) 1. If a marketing partner received more than 50 percent
of its revenue in the previous fiscal year from funds derived
from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s.
212.0305, the marketing partner shall annually report all public
and private financial data to the corporation.

2. The financial data shall include:



561354

- 417 a. The total amount of revenue received from public and
418 private sources.
- 419 b. The operating budget.
- 420 c. Employee and board member salary and benefit details.
- 421 d. An itemized account of all funds spent by a third party
422 on behalf of the corporation or a board member or an employee of
423 the corporation.
- 424 e. Itemized travel and entertainment expenditures.
- 425 (d) The following information must be posted on the
426 corporation's website:
- 427 1. A plain language version of each proposed and executed
428 contract exceeding \$35,000 with a private entity, municipality,
429 city, town, or vendor of services, supplies, or programs,
430 including marketing, or for the purchase or lease or use of
431 lands, facilities, or properties.
- 432 2. Any agreement entered into between the corporation and
433 any other entity, including a local government, private entity,
434 or nonprofit entity, that receives public funds or funds from a
435 tax imposed pursuant to s. 125.0104, s. 125.0108, or s.
436 212.0305.
- 437 3. Video recordings of each board meeting.
- 438 4. A detailed report of expenditures following each
439 marketing event paid for with the corporation's funds. Such
440 report must be posted within 10 business days after the event.
- 441 5. An annual itemized accounting of the total amount of
442 funds spent by any third party on behalf of the corporation or
443 any board member or employee of the corporation.
- 444 6. An annual itemized accounting of the total amount of
445 travel and entertainment expenditures by the corporation.



561354

(e) The corporation's website must:

1. Allow users to navigate to related sites to view supporting details.

2. Enable a taxpayer to email questions to the corporation and make such questions and the corporation's responses publicly viewable.

(13)(9) REPEAL.—This section is repealed October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Section 6. Section 288.12265, Florida Statutes, is amended to read:

288.12265 Welcome centers.—

(1) Responsibility for the welcome centers is assigned to the Department of Economic Opportunity ~~Enterprise Florida, Inc.~~, which shall contract with the Florida Tourism Industry Marketing Corporation to employ all welcome center staff.

(2) The Department of Economic Opportunity ~~Enterprise Florida, Inc.~~, shall administer and operate the welcome centers. Pursuant to a contract with the Department of Transportation, the Department of Economic Opportunity ~~Enterprise Florida, Inc.~~, shall be responsible for routine repair, replacement, or improvement and the day-to-day management of interior areas occupied by the welcome centers. All other repairs, replacements, or improvements to the welcome centers shall be the responsibility of the Department of Transportation. The Department of Economic Opportunity ~~Enterprise Florida, Inc.~~, may contract with the Florida Tourism Industry Marketing Corporation for the management and operation of the welcome centers.

Section 7. Section 288.124, Florida Statutes, is amended to read:



561354

288.124 Convention grants program.—~~VISIT Florida Enterprise~~
~~Florida, Inc.,~~ is authorized to establish a convention grants
program and, pursuant to that program, to recommend to the
department expenditures and contracts with local governments and
nonprofit corporations or organizations for the purpose of
attracting national conferences and conventions to Florida.
Preference shall be given to local governments and nonprofit
corporations or organizations seeking to attract minority
conventions to Florida. Minority conventions are events that
primarily involve minority persons, as defined in s. 288.703,
who are residents or nonresidents of the state. VISIT Florida
~~Enterprise Florida, Inc.,~~ shall establish guidelines governing
the award of grants and the administration of this program. The
department has final approval authority for any grants under
this section. The total annual allocation of funds for this
program shall not exceed \$40,000.

Section 8. Subsection (3) of section 288.904, Florida
Statutes, is amended to read:

288.904 Funding for Enterprise Florida, Inc.; performance
and return on the public's investment.—

~~(3)(a) Specifically for the marketing and advertising~~
~~activities of the Division of Tourism Marketing or as contracted~~
~~through the Florida Tourism Industry Corporation, a one-to-one~~
~~match is required of private to public contributions within 4~~
~~calendar years after the implementation date of the marketing~~
~~plan pursuant to s. 288.923.~~

~~(b) For purposes of calculating the required one-to-one~~
~~match, matching private funds shall be divided into four~~
~~categories. Documentation for the components of the four private~~



561354

~~match categories shall be kept on file for inspection as determined necessary. The four private match categories are:~~

~~1. Direct cash contributions, which include, but are not limited to, cash derived from strategic alliances, contributions of stocks and bonds, and partnership contributions.~~

~~2. Fees for services, which include, but are not limited to, event participation, research, and brochure placement and transparencies.~~

~~3. Cooperative advertising, which is the value based on cost of contributed productions, air time, and print space.~~

~~4. In-kind contributions, which include, but are not limited to, the value of strategic alliance services contributed, the value of loaned employees, discounted service fees, items contributed for use in promotions, and radio or television air time or print space for promotions. The value of air time or print space shall be calculated by taking the actual time or space and multiplying by the nonnegotiated unit price for that specific time or space which is known as the media equivalency value. In order to avoid duplication in determining media equivalency value, only the value of the promotion itself shall be included; the value of the items contributed for the promotion may not be included.~~

Section 9. Subsection (1) and paragraph (b) of subsection (2) of section 288.92, Florida Statutes, are amended to read:

288.92 Divisions of Enterprise Florida, Inc.—

(1) Enterprise Florida, Inc., may create and dissolve divisions as necessary to carry out its mission. Each division shall have distinct responsibilities and complementary missions. At a minimum, Enterprise Florida, Inc., shall have divisions



561354

related to the following areas:

(a) International Trade and Business Development;

(b) Business Retention and Recruitment;

~~(c) Tourism Marketing;~~

(c)~~(d)~~ Minority Business Development; and

(d)~~(e)~~ Sports Industry Development.

(2)

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

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

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

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

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

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

~~3. It is not a violation of s. 112.3143(2) or (4) for the officers or members of the board of directors of the Florida Tourism Industry Marketing Corporation to:~~



561354

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

~~b. Participate in the establishment or calculation of payments related to the private match requirements of s. 288.904(3). The officer or member must file an annual disclosure describing the nature of his or her interests or the interests of his or her principals, including corporate parents and subsidiaries of his or her principal, in the private match requirements. This annual disclosure requirement satisfies the disclosure requirement of s. 112.3143(4). This disclosure must be placed either on the Florida Tourism Industry Marketing Corporation's website or included in the minutes of each meeting of the Florida Tourism Industry Marketing Corporation's board of directors at which the private match requirements are discussed or voted upon.~~

Section 10. Section 288.923, Florida Statutes, is amended to read:

288.923 ~~Division of~~ Tourism marketing; definitions; responsibilities.—

~~(1) There is created within Enterprise Florida, Inc., the Division of Tourism Marketing.~~

~~(2)~~ As used in this section, the term:

(a) "Tourism marketing" means any effort exercised to attract domestic and international visitors from outside the state to destinations in this state and to stimulate Florida resident tourism to areas within the state.

(b) "Tourist" means any person who participates in trade or recreation activities outside the county of his or her permanent



561354

residence or who rents or leases transient living quarters or accommodations as described in s. 125.0104(3) (a).

(c) "County destination marketing organization" means a public or private agency that is funded by local option tourist development tax revenues under s. 125.0104, or local option convention development tax revenues under s. 212.0305, and is officially designated by a county commission to market and promote the area for tourism or convention business or, in any county that has not levied such taxes, a public or private agency that is officially designated by the county commission to market and promote the area for tourism or convention business.

(d) "Direct-support organization" means the Florida Tourism Industry Marketing Corporation.

~~(2)(3) The Department of Economic Opportunity Enterprise Florida, Inc., shall contract with the Florida Tourism Industry Marketing Corporation, a direct-support organization established in s. 288.1226, to execute tourism promotion and marketing services, functions, and programs for the state, including, but not limited to, the activities prescribed by the 4-year marketing plan. The division shall assist to maintain and implement the contract.~~

~~(3)(4) The department's division's responsibilities and duties include, but are not limited to:~~

(a) Maintaining and implementing the contract with the Florida Tourism Industry Marketing Corporation.

~~(b) Ensuring that the corporation develops Advising the department and Enterprise Florida, Inc., on development of domestic and international tourism marketing campaigns featuring Florida.~~



561354

(c) Developing, in collaboration with the corporation, a 4-year marketing plan.

1. At a minimum, the marketing plan shall discuss the following:

- a. Continuation of overall tourism growth in this state.
 - b. Expansion to new or under-represented tourist markets.
 - c. Maintenance of traditional and loyal tourist markets.
 - d. Coordination of efforts with county destination marketing organizations, other local government marketing groups, privately owned attractions and destinations, and other private sector partners to create a seamless, four-season advertising campaign for the state and its regions.
 - e. Development of innovative techniques or promotions to build repeat visitation by targeted segments of the tourist population.
 - f. Consideration of innovative sources of state funding for tourism marketing.
 - g. Promotion of nature-based tourism and heritage tourism.
 - h. Development of a component to address emergency response to natural and manmade disasters from a marketing standpoint.
2. The plan shall be annual in construction and ongoing in nature. Any annual revisions of the plan shall carry forward the concepts of the remaining 3-year portion of the plan and consider a continuum portion to preserve the 4-year timeframe of the plan. The plan also shall include recommendations for specific performance standards and measurable outcomes for the ~~division and direct-support organization. The department, in consultation with the board of directors of Enterprise Florida, Inc.,~~ shall base the actual performance metrics on these



561354

recommendations.

3. The 4-year marketing plan shall be developed in collaboration with the Florida Tourism Industry Marketing Corporation. The plan shall be annually reviewed and approved by the department ~~board of directors of Enterprise Florida, Inc.~~

(d) Drafting and submitting an annual report ~~required by s. 288.92.~~ The annual report shall set forth for the department ~~division~~ and the direct-support organization:

1. Operations and accomplishments during the fiscal year, including the economic benefit of the state's investment and effectiveness of the marketing plan.

2. The 4-year marketing plan, including recommendations on methods for implementing and funding the plan.

3. The assets and liabilities of the direct-support organization at the end of its most recent fiscal year.

4. A copy of the annual financial and compliance audit conducted under s. 288.1226(7) ~~288.1226(6).~~

~~(5) Notwithstanding s. 288.92, the division shall be staffed by the Florida Tourism Industry Marketing Corporation. Such staff shall not be considered to be employees of the division and shall remain employees of the Florida Tourism Industry Marketing Corporation. Section 288.905 does not apply to the Florida Tourism Industry Marketing Corporation.~~

~~(4)(6)~~ This section is repealed October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Section 11. This act shall take effect July 1, 2017.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:



561354

678 Delete everything before the enacting clause
679 and insert:

680 A bill to be entitled
681 An act relating to economic programs; amending s.
682 11.45, F.S.; authorizing the Auditor General to audit
683 the corporation; authorizing the corporation to enter
684 into an agreement with the Department of Economic
685 Opportunity for certain purposes and to use certain
686 funds; providing legislative intent; amending s.
687 272.11, F.S.; transferring responsibility for the
688 Capitol information center from Enterprise Florida,
689 Inc., to the department; amending s. 288.017, F.S.;
690 authorizing the department, rather than Enterprise
691 Florida, Inc., to establish and operate a cooperative
692 advertising matching grants program; authorizing the
693 department to contract with VISIT Florida to
694 administer such program; authorizing the department to
695 conduct an annual competitive selection process for
696 the award of program grants; removing a requirement
697 that the department consider certain recommendations
698 from Enterprise Florida, Inc., in evaluating program
699 grant applications; amending s. 288.1226, F.S.;
700 providing that the corporation is a direct-support
701 organization of the department, rather than Enterprise
702 Florida, Inc.; revising the purposes for which the
703 corporation is an agency; providing that the officers
704 and members of the board of directors of the
705 corporation are subject to certain provisions and are
706 public officers or employees of an agency for a



561354

certain purpose; requiring the corporation to comply with certain per diem and travel expense provisions; providing corporation board members and officers with certain voting authority; requiring such officers and members to file a certain annual disclosure; requiring that such disclosure be placed on the corporation's website; authorizing reimbursement for per diem and travel expenses for corporation board members; requiring such expenses to be paid out of corporation funds; subjecting certain contracts to specified notice and review procedures; prohibiting the execution of certain contracts; limiting the amount of compensation paid to corporation officers, agents, and employees; limiting the value of certain benefits provided to corporation employees; prohibiting certain performance bonuses and severance pay; requiring the Governor to approve certain out-of-state or international travel; requiring the corporation to appoint its president and chief executive officer, subject to Senate confirmation; prohibiting the corporation from creating or establishing certain entities and expending certain funds that benefit only one entity; requiring a one-to-one match of private to public contributions to the corporation; providing private contribution categories to use when calculating such match; prohibiting certain contributions from being considered private contributions for purposes of such match; requiring the reversion of unmatched public contributions to the



561354

state treasury by a certain date annually; requiring a quarterly report to the department; requiring the corporation to provide certain data to the Office of Economic and Demographic Research; prohibiting the expenditure of corporation funds for certain purposes; prohibiting the acceptance or receipt of certain items or services from certain entities; removing a public records exemption; limiting certain expenses of corporation employees; providing an exception; specifying a procedure for the release of appropriated funds; providing that the corporation is a governmental entity and subject to the Transparency Florida Act; requiring the inclusion of specified information in certain corporation contracts and on the corporation's website; requiring specified functionality of the corporation's website; requiring marketing partners to provide annual reports containing specified financial data to the corporation; conforming provisions to changes made by the act; amending s. 288.12265, F.S.; transferring responsibility for administering and operating welcome centers from Enterprise Florida, Inc., to the department; amending s. 288.124, F.S.; authorizing VISIT Florida, rather than Enterprise Florida, Inc., to establish a convention grants program and guidelines governing the award of program grants and the administration of such program; repealing s. 288.826, F.S., relating to the Florida International Trade and Promotion Trust Fund; terminating such trust



561354

fund; transferring the balances and revenues of such terminated trust fund to the General Revenue Fund; requiring the department to pay outstanding debts and obligations of such terminated trust fund; requiring the Chief Financial Officer to close out and remove such terminated trust fund from state accounting systems; amending s. 288.904, F.S.; conforming provisions to changes made by the act; amending s. 288.92, F.S.; removing a requirement that Enterprise Florida, Inc., include a division related to tourism marketing; conforming provisions to changes made by the act; amending s. 288.923, F.S.; terminating the Division of Tourism Marketing created within Enterprise Florida, Inc.; transferring duties and authority to contract with the corporation from Enterprise Florida, Inc., to the department; conforming a provision to changes made by the act; providing an effective date.



536208

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Montford) recommended the following:

Senate Substitute for Amendment (561354) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (x) is added to subsection (3) of section 11.45, Florida Statutes, to read:

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

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the



536208

direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

(x) The Florida Tourism Industry Marketing Corporation.

Section 2. (1) The Florida Tourism Industry Marketing Corporation may enter into an agreement with the Department of Economic Opportunity to continue any existing program, activity, duty, or function necessary for the operation of the corporation.

(2) Any funds held in trust which were donated to or earned by the Florida Tourism Industry Marketing Corporation may be used by the corporation for the original purposes for which the funds were received.

(3) It is the intent of the Legislature that the changes made by this act be accomplished with minimal disruption of services provided to the public and with minimal disruption to employees of any organization.

Section 3. Section 272.11, Florida Statutes, is amended to read:

272.11 Capitol information center.—The Department of Economic Opportunity ~~Enterprise Florida, Inc.,~~ shall establish, maintain, and operate a Capitol information center somewhere within the area of the Capitol Center and employ personnel or enter into contracts to maintain same. The department may contract with VISIT Florida for the management and operation of the Capitol information center.

Section 4. Subsections (1) and (3) of section 288.017, Florida Statutes, are amended to read:

288.017 Cooperative advertising matching grants program.—



536208

(1) The department ~~Enterprise Florida, Inc.,~~ is authorized to establish a cooperative advertising matching grants program and, pursuant thereto, to make expenditures and enter into contracts with local governments and nonprofit corporations for the purpose of publicizing the tourism advantages of the state. The department, ~~based on recommendations from Enterprise Florida, Inc.,~~ shall have final approval of grants awarded through this program. The department ~~Enterprise Florida, Inc.,~~ may contract with VISIT Florida ~~its direct-support organization~~ to administer the program.

(3) The department ~~Enterprise Florida, Inc.,~~ shall conduct an annual competitive selection process for the award of grants under the program. In determining its recommendations for the grant awards, the department ~~commission~~ shall consider the demonstrated need of the applicant for advertising assistance, the feasibility and projected benefit of the applicant's proposal, the amount of nonstate funds that will be leveraged, and such other criteria as the department ~~commission~~ deems appropriate. ~~In evaluating grant applications, the department shall consider recommendations from Enterprise Florida, Inc.~~ The department, ~~however,~~ has final approval authority for any grant under this section.

Section 5. Section 288.1226, Florida Statutes, is amended to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(1) DEFINITIONS.—For the purposes of this section, the term "corporation" means the Florida Tourism Industry Marketing Corporation.



536208

(2) ESTABLISHMENT.—The Florida Tourism Industry Marketing Corporation is a direct-support organization of the Department of Economic Opportunity Enterprise Florida, Inc.

(a) The Florida Tourism Industry Marketing Corporation is a corporation not for profit, as defined in s. 501(c)(6) of the Internal Revenue Code of 1986, as amended, that is incorporated under the provisions of chapter 617 and approved by the Department of State.

(b) The corporation is organized and operated exclusively to request, receive, hold, invest, and administer property and to manage and make expenditures for the operation of the activities, services, functions, and programs of this state which relate to the statewide, national, and international promotion and marketing of tourism.

(c) 1. The corporation is not an agency for the purposes of chapters 120, 216, and 287; ss. 255.21, 255.25, and 255.254, relating to leasing of buildings; ss. 283.33 and 283.35, relating to bids for printing; s. 215.31; and parts I, II, and IV-VIII of chapter 112. However, the corporation shall comply with the per diem and travel expense provisions of s. 112.061.

2. It is not a violation of s. 112.3143(2) or (4) for the officers or members of the board of directors of the corporation to:

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

b. Participate in the establishment or calculation of payments related to the private match requirements of subsection (6). The officer or member must file an annual disclosure



536208

describing the nature of his or her interests or the interests of his or her principals, including corporate parents and subsidiaries of his or her principals, in the private match requirements. This annual disclosure requirement satisfies the disclosure requirement of s. 112.3143(4). This disclosure must be placed on the corporation's website or included in the minutes of each meeting of the corporation's board of directors at which the private match requirements are discussed or voted upon.

(d) The corporation is subject to the provisions of chapter 119, relating to public meetings, and those provisions of chapter 286 relating to public meetings and records.

(3) USE OF PROPERTY.—The Department of Economic Opportunity
~~Enterprise Florida, Inc.:~~

(a) Is authorized to permit the use of property and facilities of the department ~~Enterprise Florida, Inc.~~, by the corporation, subject to the provisions of this section.

(b) Shall prescribe conditions with which the corporation must comply in order to use property and facilities of the department ~~Enterprise Florida, Inc.~~ Such conditions shall provide for budget and audit review and for oversight by the department ~~Enterprise Florida, Inc.~~

(c) May not permit the use of property and facilities of the department ~~Enterprise Florida, Inc.~~, if the corporation does not provide equal employment opportunities to all persons, regardless of race, color, national origin, sex, age, or religion.

(4) BOARD OF DIRECTORS.—The board of directors of the corporation shall be composed of 31 tourism-industry-related



536208

members, appointed by the corporation Enterprise Florida, Inc.,
in conjunction with the department. Board members shall serve
without compensation, but are entitled to receive reimbursement
for per diem and travel expenses pursuant to s. 112.061. Such
expenses must be paid out of funds of the corporation.

(a) The board shall consist of 16 members, appointed in
such a manner as to equitably represent all geographic areas of
the state, with no fewer than two members from any of the
following regions:

1. Region 1, composed of Bay, Calhoun, Escambia, Franklin,
Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty,
Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Counties.

2. Region 2, composed of Alachua, Baker, Bradford, Clay,
Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette,
Levy, Madison, Marion, Nassau, Putnam, St. Johns, Suwannee,
Taylor, and Union Counties.

3. Region 3, composed of Brevard, Indian River, Lake,
Okeechobee, Orange, Osceola, St. Lucie, Seminole, Sumter, and
Volusia Counties.

4. Region 4, composed of Citrus, Hernando, Hillsborough,
Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.

5. Region 5, composed of Charlotte, Collier, DeSoto,
Glades, Hardee, Hendry, Highlands, and Lee Counties.

6. Region 6, composed of Broward, Martin, Miami-Dade,
Monroe, and Palm Beach Counties.

(b) The 15 additional tourism-industry-related members
shall include 1 representative from the statewide rental car
industry; 7 representatives from tourist-related statewide
associations, including those that represent hotels,



536208

campgrounds, county destination marketing organizations, museums, restaurants, retail, and attractions; 3 representatives from county destination marketing organizations; 1 representative from the cruise industry; 1 representative from an automobile and travel services membership organization that has at least 2.8 million members in Florida; 1 representative from the airline industry; and 1 representative from the space tourism industry, who will each serve for a term of 2 years.

(5) POWERS AND DUTIES.—The corporation, in the performance of its duties:

(a) May make and enter into contracts and assume such other functions as are necessary to carry out the provisions of the 4-year marketing plan required by s. 288.923, and the corporation's contract with the department which Enterprise Florida, Inc., which are not inconsistent with this or any other provision of law. A proposed contract with a total cost of \$750,000 or more is subject to the notice and review procedures of s. 216.177. If the chair or vice chair of the Legislative Budget Commission, the President of the Senate, or the Speaker of the House of Representatives timely advises the corporation in writing that such proposed contract is contrary to legislative policy and intent, the corporation may not execute such proposed contract. The corporation may not enter into multiple related contracts to avoid the requirements of this paragraph.

(b) May develop a program to provide incentives and to attract and recognize those entities which make significant financial and promotional contributions towards the expanded tourism promotion activities of the corporation.



536208

(c) May establish a cooperative marketing program with other public and private entities which allows the use of the VISIT Florida logo in tourism promotion campaigns which meet the standards of the department ~~Enterprise Florida, Inc.~~, for which the corporation may charge a reasonable fee.

(d) May sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person.

(e) May adopt, use, and alter a common corporate seal. However, such seal must always contain the words "corporation not for profit."

(f) Shall elect or appoint such officers and agents as its affairs shall require and allow them reasonable compensation. However, each officer or agent, including the president and chief executive officer of the corporation, may not receive public compensation that exceeds \$120,000 per year.

(g) Shall hire and establish salaries and personnel and employee benefit programs for such permanent and temporary employees as are necessary to carry out the provisions of the 4-year marketing plan and the corporation's contract with the department ~~Enterprise Florida, Inc.~~, which are not inconsistent with this or any other provision of law. However, an employee may not receive public compensation that exceeds \$120,000 per year. Any public payments of performance bonuses or severance pay to employees of the corporation are prohibited unless specifically authorized by law.

(h) Shall appoint a president and chief executive officer of the corporation, who shall serve subject to confirmation by the Senate ~~provide staff support to the Division of Tourism~~



536208

~~Promotion of Enterprise Florida, Inc. The president and chief executive officer of the Florida Tourism Industry Marketing Corporation shall serve without compensation as the director of the division.~~

(i) May adopt, change, amend, and repeal bylaws, not inconsistent with law or its articles of incorporation, for the administration of the provisions of the 4-year marketing plan and the corporation's contract with the department ~~Enterprise Florida, Inc.~~

(j) May conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States or any foreign country. When ~~Where~~ feasible, appropriate, and recommended by the 4-year marketing plan ~~developed by the Division of Tourism Promotion of Enterprise Florida, Inc.,~~ the corporation may collocate the programs of foreign tourism offices in cooperation with any foreign office operated by any agency of this state.

(k) May appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, state, or federal government.

(l) May request or accept any grant, payment, or gift, of funds or property made by this state or by the United States or any department or agency thereof or by any individual, firm, corporation, municipality, county, or organization for any or all of the purposes of the 4-year marketing plan and the corporation's contract with the department which ~~Enterprise Florida, Inc., that~~ are not inconsistent with this or any other provision of law. Such funds shall be deposited in a bank



536208

account established by the corporation's board of directors. The corporation may expend such funds in accordance with the terms and conditions of any such grant, payment, or gift, in the pursuit of its administration or in support of the programs it administers. The corporation shall separately account for the public funds and the private funds deposited into the corporation's bank account.

(m) Shall establish a plan for participation in the corporation which will provide additional funding for the administration and duties of the corporation.

(n) In the performance of its duties, may undertake, or contract for, marketing projects and advertising research projects.

(o) In addition to any indemnification available under chapter 617, ~~the corporation~~ may indemnify, and purchase and maintain insurance on behalf of, directors, officers, and employees of the corporation against any personal liability or accountability by reason of actions taken while acting within the scope of their authority.

(p) May not create or establish any other entity, corporation, or direct-support organization.

(q) May not expend funds, public or private, which directly or indirectly benefit only one company, corporation, or business entity.

(6) MATCHING REQUIREMENTS.-

(a) A one-to-one match is required of private to public contributions to the corporation. Public contributions include all state appropriations to the corporation.

(b) For purposes of calculating the required one-to-one



536208

match, the corporation shall receive matching private contributions in one of four private match categories. The corporation shall maintain documentation of such categorized contributions on file and make such documentation available for inspection upon reasonable notice during its regular business hours. Contribution details shall be included in the quarterly reports required under subsection (8). The private match categories are:

1. Direct cash contributions from private sources, which include, but are not limited to, cash derived from strategic alliances, contributions of stocks and bonds, and partnership contributions.

2. Fees for services, which include, but are not limited to, event participation, research, and brochure placement and transparencies.

3. Cooperative advertising, which is limited to partner expenditures for paid media placement, partner expenditures for collateral material distribution, and the actual market value of contributed productions, air time, and print space.

4. In-kind contributions, which is limited to the actual market value of promotional contributions of partner-supplied benefits to target audiences that would otherwise require tourist promotion expenditures by the corporation for air travel, rental car fees, hotel rooms, RV or campsite space rental, on-site guest services, and admission tickets.

Contributions from a governmental entity or from an entity that received more than 50 percent of its revenue in the previous fiscal year from public sources, including revenue derived from



536208

taxes, fees, or other government revenues, are not considered private contributions for purposes of calculating the required one-to-one match.

(c) If the corporation fails to meet the one-to-one match requirements of this subsection, the corporation shall revert all unmatched public contributions to the State Treasury by June 30 of each fiscal year.

(7)(6) ANNUAL AUDIT.—The corporation shall provide for an annual financial audit in accordance with s. 215.981. The annual audit report shall be submitted to the Auditor General, ~~the~~ Office of Program Policy Analysis and Government Accountability, ~~Enterprise Florida, Inc.,~~ and the department for review. The Office of Program Policy Analysis and Government Accountability, ~~Enterprise Florida, Inc.,~~ the department, ~~the~~ and the Auditor General have the authority to require and receive from the corporation or from its independent auditor any detail or supplemental data relative to the operation of the corporation. The department shall annually certify whether the corporation is operating in a manner and achieving the objectives that are consistent with the policies and goals of the department ~~Enterprise Florida, Inc.,~~ and its long-range marketing plan. The identity of a donor or prospective donor to the corporation who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.

(8)(7) REPORT.—The corporation shall provide a quarterly report to the department ~~Enterprise Florida, Inc.,~~ which shall:



536208

(a) Measure the current vitality of the visitor industry of this state as compared to the vitality of such industry for the year to date and for comparable quarters of past years.

Indicators of vitality shall be determined by the department ~~Enterprise Florida, Inc.,~~ and shall include, but not be limited to, estimated visitor count and party size, length of stay, average expenditure per party, and visitor origin and destination.

(b) Provide detailed, unaudited financial statements of sources and uses of public and private funds.

(c) Measure progress towards annual goals and objectives set forth in the 4-year marketing plan.

(d) Review all pertinent research findings.

(e) Provide other measures of accountability as requested by the department ~~Enterprise Florida, Inc.~~

The corporation must take all steps necessary to provide all data that is used to develop the report, including source data, to the Office of Economic and Demographic Research.

(9)(8) PROHIBITIONS; CORPORATE FUNDS; GIFTS.—

Notwithstanding per diem and travel expenses authorized pursuant s. 112.061, funds of the corporation may not be expended for food, beverages, lodging, entertainment, or gifts for employees of the corporation, board members of the corporation, or employees of a tourist or economic development entity that receives revenue from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305. An employee or board member of the corporation may not accept or receive food, beverages, lodging, entertainment, or gifts from a tourist or economic development



536208

entity that receives revenue from a tax imposed pursuant to s.
125.0104, s. 125.0108, or s. 212.0305 ~~PUBLIC RECORDS EXEMPTION.~~

~~The identity of any person who responds to a marketing project
or advertising research project conducted by the corporation in
the performance of its duties on behalf of Enterprise Florida,
Inc., or trade secrets as defined by s. 812.081 obtained
pursuant to such activities, are exempt from s. 119.07(1) and s.
24(a), Art. I of the State Constitution. This subsection is
subject to the Open Government Sunset Review Act in accordance
with s. 119.15 and shall stand repealed on October 2, 2021,
unless reviewed and saved from repeal through reenactment by the
Legislature.~~

(10) ~~(9)~~ LODGING EXPENSES.—Lodging expenses for an employee
of the corporation may not exceed \$150 per day, excluding taxes.
However, an employee of the corporation may expend his or her
own funds for any lodging expenses in excess of \$150 per day.

(11) TRANSPARENCY.—

(a) The corporation is a governmental entity as defined in
s. 215.985 and, therefore, is subject to the Transparency
Florida Act.

(b) A contract entered into between the corporation and any
other entity that received more than 50 percent of its revenue
in the previous fiscal year from funds derived from a tax
imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305
must include all of the following information:

1. The purpose of the contract.
2. Specific performance standards and responsibilities for
each entity.
3. A detailed project or contract budget, if applicable.



536208

4. The value of any services provided.

5. The salaries of all employees and board members of the entity and the projected travel and entertainment expenses for such employees and board members.

(c)1. If a marketing partner received more than 50 percent of its revenue in the previous fiscal year from funds from the corporation or from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, the marketing partner shall annually report all public and private financial data to the corporation.

2. The financial data must include:

a. The total amount of revenue received from public and private sources.

b. The operating budget.

c. Employee and board member salary and benefit details from public and private funds.

d. An itemized account of all funds spent by a third party on behalf of the corporation or a board member or an employee of the corporation.

e. Itemized travel and entertainment expenditures.

(d) The following information must be posted on the corporation's website:

1. A plain language version of each proposed and executed contract with a private entity, municipality, or vendor exceeding \$35,000 for services, supplies, or programs, including marketing, or for the purchase or lease or use of lands, facilities, or properties.

2. Any contract entered into between the corporation and any other entity, including a local government, private entity, or nonprofit entity, which receives public funds or funds from a



536208

tax imposed pursuant to s. 125.0104, s. 125.0108, or s.
212.0305.

3. The contracts and the required information pursuant to
paragraph (b) and the financial data submitted to the
corporation pursuant to paragraph (c).

4. Video recordings of each board meeting.

5. A detailed report of expenditures following each
marketing event paid for with the corporation's funds. Such
report must be posted within 10 business days after the event.

6. An annual itemized accounting of the total amount of
funds spent by any third party on behalf of the corporation or
any board member or employee of the corporation.

7. An annual itemized accounting of the total amount of
travel and entertainment expenditures by the corporation.

(e) The corporation's website must:

1. Allow users to navigate to related sites to view
supporting details.

2. Enable a taxpayer to send questions via e-mail to the
corporation and make such questions and the corporation's
responses publicly viewable.

(12) REPEAL.—This section is repealed October 1, 2019,
unless reviewed and saved from repeal by the Legislature.

Section 6. Section 288.12265, Florida Statutes, is amended
to read:

288.12265 Welcome centers.—

(1) Responsibility for the welcome centers is assigned to
the Department of Economic Opportunity ~~Enterprise Florida, Inc.,~~
which shall contract with the Florida Tourism Industry Marketing
Corporation to employ all welcome center staff.



536208

(2) The Department of Economic Opportunity Enterprise
~~Florida, Inc.,~~ shall administer and operate the welcome centers.
Pursuant to a contract with the Department of Transportation,
the Department of Economic Opportunity Enterprise Florida, Inc.,
shall be responsible for routine repair, replacement, or
improvement and the day-to-day management of interior areas
occupied by the welcome centers. All other repairs,
replacements, or improvements to the welcome centers shall be
the responsibility of the Department of Transportation. The
Department of Economic Opportunity Enterprise Florida, Inc., may
contract with the Florida Tourism Industry Marketing Corporation
for the management and operation of the welcome centers.

Section 7. Section 288.124, Florida Statutes, is amended to
read:

288.124 Convention grants program.—VISIT Florida Enterprise
~~Florida, Inc.,~~ is authorized to establish a convention grants
program and, pursuant to that program, to recommend to the
department expenditures and contracts with local governments and
nonprofit corporations or organizations for the purpose of
attracting national conferences and conventions to Florida.
Preference shall be given to local governments and nonprofit
corporations or organizations seeking to attract minority
conventions to Florida. Minority conventions are events that
primarily involve minority persons, as defined in s. 288.703,
who are residents or nonresidents of the state. VISIT Florida
~~Enterprise Florida, Inc.,~~ shall establish guidelines governing
the award of grants and the administration of this program. The
department has final approval authority for any grants under
this section. The total annual allocation of funds for this



536208

program shall not exceed \$40,000.

Section 8. Subsection (5) of section 288.901, Florida Statutes, is amended to read:

288.901 Enterprise Florida, Inc.—

(5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

(a) In addition to the Governor or his or her designee, the board of directors shall consist of the following appointed members:

1. The Commissioner of Education or his or her designee.

2. The Chief Financial Officer or his or her designee.

3. The Attorney General or his or her designee.

4. The Commissioner of Agriculture or his or her designee.

5. The chairperson of the board of directors of CareerSource Florida, Inc.

6. The Secretary of State or his or her designee.

7. Twelve members from the private sector, six of whom shall be appointed by the Governor, three of whom shall be appointed by the President of the Senate, and three of whom shall be appointed by the Speaker of the House of Representatives. Members appointed by the Governor are subject to Senate confirmation.

(b) In making their appointments, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall ensure that the composition of the board of directors reflects the diversity of Florida's business community and is representative of the economic development goals in subsection (2). The board must include at least one director for each of the following areas of expertise: international business, tourism marketing, the space or



536208

aerospace industry, managing or financing a minority-owned business, manufacturing, finance and accounting, and sports marketing.

(c) The Governor, the President of the Senate, and the Speaker of the House of Representatives also shall consider appointees who reflect Florida's racial, ethnic, and gender diversity. Efforts shall be taken to ensure participation from all geographic areas of the state, including representation from urban and rural communities.

(d) Appointed members shall be appointed to 4-year terms, except that initially, to provide for staggered terms, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint one member to serve a 2-year term and one member to serve a 3-year term, with the remaining initial appointees serving 4-year terms. All subsequent appointments shall be for 4-year terms.

(e) Initial appointments must be made by October 1, 2011, and be eligible for confirmation at the earliest available Senate session. Terms end on September 30.

(f) Any member is eligible for reappointment, except that a member may not serve more than two terms.

(g) A vacancy on the board of directors shall be filled for the remainder of the unexpired term. Vacancies on the board shall be filled by appointment by the Governor, the President of the Senate, or the Speaker of the House of Representatives, respectively, depending on who appointed the member whose vacancy is to be filled or whose term has expired.

(h) Appointed members may be removed by the Governor, the President of the Senate, or the Speaker of the House of



536208

Representatives, respectively, for cause. Absence from three consecutive meetings results in automatic removal.

All board members shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061. Such expenses must be paid out of funds of Enterprise Florida, Inc.

Section 9. Subsections (7), (8), and (9) are added to section 288.903, Florida Statutes, to read:

288.903 Duties of Enterprise Florida, Inc.—Enterprise Florida, Inc., shall have the following duties:

(7) Submit all proposed contracts with a total cost of \$750,000 or more in accordance with the notice and review procedures of s. 216.177. If the chair or vice chair of the Legislative Budget Commission, the President of the Senate, or the Speaker of the House of Representatives timely advises Enterprise Florida, Inc., in writing that such proposed contract is contrary to legislative policy and intent, Enterprise Florida, Inc., may not execute such proposed contract. Enterprise Florida, Inc., may not enter into multiple related contracts to avoid the requirements of this paragraph. This paragraph does not apply to contracts for the award of a statutorily authorized incentive program.

(8) May not create or establish any other entity, corporation, or direct-support organization, unless authorized by law.

(9) Comply with the per diem and travel expenses pursuant to s. 112.061.

Section 10. Section 288.904, Florida Statutes, is amended



536208

to read:

288.904 Funding for Enterprise Florida, Inc.; performance and return on the public's investment.—

(1)(a) The Legislature may annually appropriate to Enterprise Florida, Inc., a sum of money for its operations, and separate line-item appropriations for each of the divisions listed in s. 288.92.

(b) The state's operating investment in Enterprise Florida, Inc., and its divisions is the budget contracted by the department to Enterprise Florida, Inc., less any funding that is directed by the Legislature to be subcontracted to a specific recipient entity.

(c) The board of directors of Enterprise Florida, Inc., shall adopt for each upcoming fiscal year an operating budget for the organization, including its divisions, which specifies the intended uses of the state's operating investment and a plan for securing private sector support.

(2)(a) The Legislature finds that it is a priority to maximize private sector support in operating Enterprise Florida, Inc., and its divisions, as an endorsement of its value and as an enhancement of its efforts. Thus, the state appropriations must be matched with private sector support equal to at least 100 percent of the state operational funding.

(b) Private sector support in operating Enterprise Florida, Inc., and its divisions includes:

1. Cash given directly to Enterprise Florida, Inc., for its operations, including contributions from at-large members of the board of directors;

2. Cash donations from organizations assisted by the



536208

divisions;

3. Cash jointly raised by Enterprise Florida, Inc., and a private local economic development organization, a group of such organizations, or a statewide private business organization that supports collaborative projects;

4. Cash generated by fees charged for products or services of Enterprise Florida, Inc., and its divisions by sponsorship of events, missions, programs, and publications; and

5. Copayments, stock, warrants, royalties, or other private resources dedicated to Enterprise Florida, Inc., or its divisions.

Contributions from a governmental entity or from an entity that received more than 50 percent of its revenue in the previous fiscal year from public sources, including revenue derived from taxes, fees, or other government revenues, are not considered private contributions for purposes of calculating the required match.

~~(3)(a) Specifically for the marketing and advertising activities of the Division of Tourism Marketing or as contracted through the Florida Tourism Industry Corporation, a one-to-one match is required of private to public contributions within 4 calendar years after the implementation date of the marketing plan pursuant to s. 288.923.~~

~~(b) For purposes of calculating the required one-to-one match, matching private funds shall be divided into four categories. Documentation for the components of the four private match categories shall be kept on file for inspection as determined necessary. The four private match categories are:~~



536208

~~1. Direct cash contributions, which include, but are not limited to, cash derived from strategic alliances, contributions of stocks and bonds, and partnership contributions.~~

~~2. Fees for services, which include, but are not limited to, event participation, research, and brochure placement and transparencies.~~

~~3. Cooperative advertising, which is the value based on cost of contributed productions, air time, and print space.~~

~~4. In-kind contributions, which include, but are not limited to, the value of strategic alliance services contributed, the value of loaned employees, discounted service fees, items contributed for use in promotions, and radio or television air time or print space for promotions. The value of air time or print space shall be calculated by taking the actual time or space and multiplying by the nonnegotiated unit price for that specific time or space which is known as the media equivalency value. In order to avoid duplication in determining media equivalency value, only the value of the promotion itself shall be included; the value of the items contributed for the promotion may not be included.~~

~~(3)(4)~~ Enterprise Florida, Inc., shall fully comply with the performance measures, standards, and sanctions in its contract with the department, under s. 20.60. The department shall ensure, to the maximum extent possible, that the contract performance measures are consistent with performance measures that it is required to develop and track under performance-based program budgeting. The contract shall also include performance measures for the divisions.

~~(4)(5)~~ The Legislature intends to review the performance of



536208

Enterprise Florida, Inc., in achieving the performance goals stated in its annual contract with the department to determine whether the public is receiving a positive return on its investment in Enterprise Florida, Inc., and its divisions. It also is the intent of the Legislature that Enterprise Florida, Inc., coordinate its operations with local economic development organizations to maximize the state and local return on investment to create jobs for Floridians.

(5) (a) For purposes of this section, Enterprise Florida, Inc., is a governmental entity as defined in s. 215.985 and, therefore, is subject to the Transparency Florida Act.

(b) A contract entered into between Enterprise Florida, Inc., and any other entity, including a local government, private, or nonprofit entity, which receives public funds from the state or from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305 must include all of the following information:

1. The purpose of the contract.

2. Specific performance standards and responsibilities for each entity.

3. A detailed project or contract budget, if applicable.

4. The value of any services provided.

5. The salaries of all employees and board members of the entity and the projected travel and entertainment expenses for employees and board members.

(c) 1. If a partner entity received more than 50 percent of its revenue in the previous fiscal year from funds from Enterprise Florida, Inc., or from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, the partner entity shall



536208

annually report all public and private financial data to
Enterprise Florida, Inc.

2. The financial data must include:

a. The total amount of revenue received from public and
private sources.

b. The operating budget.

c. Employee and board member salary and benefit details
from public and private funds.

d. An itemized account of all funds spent by a third party
on behalf of Enterprise Florida, Inc., or a board member or an
employee of Enterprise Florida, Inc.

e. Itemized travel and entertainment expenditures.

(d) The following information must be posted on the website
of Enterprise Florida, Inc.:

1. A plain language version of each proposed and executed
contract with a private entity, municipality, or vendor
exceeding \$35,000 for services, supplies, or programs, including
marketing, or for the purchase or lease or use of lands,
facilities, or properties.

2. Any contract entered into between Enterprise Florida,
Inc., and any other entity, including a local government,
private entity, or nonprofit entity, which receives public funds
or funds from a tax imposed pursuant to s. 125.0104, s.
125.0108, or s. 212.0305.

3. The contracts and the required information under
paragraph (b) and the financial data submitted to Enterprise
Florida, Inc., under paragraph (c).

4. Video recordings of each board meeting.

5. A detailed report of expenditures following each



536208

marketing event paid for with Enterprise Florida, Inc., funds.
Such report must be posted within 10 business days after the
event.

6. An annual itemized accounting of the total amount of
funds spent by any third party on behalf of Enterprise Florida,
Inc., or any board member or employee of Enterprise Florida,
Inc.

7. An annual itemized accounting of the total amount of
travel and entertainment expenditures by Enterprise Florida,
Inc.

(e) The Enterprise Florida, Inc., website must:

1. Allow users to navigate to related sites to view
supporting details.

2. Enable a taxpayer to send questions via e-mail to
Enterprise Florida, Inc., and make such questions and Enterprise
Florida, Inc., responses publicly viewable.

Section 11. Section 288.905, Florida Statutes, is amended
to read:

288.905 President and employees of Enterprise Florida,
Inc.—

(1) The board of directors of Enterprise Florida, Inc.,
shall appoint a president, who shall serve subject to
confirmation by the Senate ~~at the pleasure of the Governor~~. The
president shall also be known as the “secretary of commerce” and
shall serve as the Governor’s chief negotiator for business
recruitment and business expansion.

(2) The president is the chief administrative and
operational officer of the board of directors and of Enterprise
Florida, Inc., and shall direct and supervise the administrative



536208

affairs of the board of directors and any divisions, councils, or boards. The board of directors may delegate to the president those powers and responsibilities it deems appropriate, including hiring and management of all staff, except for the appointment of a president.

(3) The board of directors shall establish and adjust the president's compensation.

(4) No employee of Enterprise Florida, Inc., including an officer or agent, the president, and the chief executive officer, may receive public compensation for employment which ~~that exceeds \$120,000 per year the salary paid to the Governor,~~ ~~unless the board of directors and the employee have executed a contract that prescribes specific, measurable performance outcomes for the employee, the satisfaction of which provides the basis for the award of incentive payments that increase the employee's total compensation to a level above the salary paid to the Governor.~~ Any public payments of performance bonuses or severance pay to employees are prohibited unless specifically authorized by law.

(5) Lodging expenses for an employee may not exceed \$150 per day, excluding taxes, unless participating in a negotiated group rate discount or providing documentation of at least three comparable alternatives demonstrating the unavoidable higher expense. However, an employee may expend his or her own funds for any lodging expenses in excess of \$150 per day.

(6) Notwithstanding per diem and travel expenses authorized pursuant s. 112.061, funds of Enterprise Florida, Inc., may not be expended for food, beverages, lodging, entertainment, or gifts for employees of Enterprise Florida, Inc., board members



536208

of Enterprise Florida, Inc., or employees of a tourist or economic development entity that receives revenue from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305. An employee or board member of Enterprise Florida, Inc., may not accept or receive food, beverages, lodging, entertainment, or gifts from a tourist or economic development entity that receives revenue from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, or from any private or public vendor.

Section 12. Subsection (1) and paragraph (b) of subsection (2) of section 288.92, Florida Statutes, are amended to read:

288.92 Divisions of Enterprise Florida, Inc.—

(1) Enterprise Florida, Inc., may create and dissolve divisions as necessary to carry out its mission. Each division shall have distinct responsibilities and complementary missions. At a minimum, Enterprise Florida, Inc., shall have divisions related to the following areas:

(a) International Trade and Business Development;

(b) Business Retention and Recruitment;

~~(c) Tourism Marketing;~~

(c)~~(d)~~ Minority Business Development; and

(d)~~(e)~~ Sports Industry Development.

(2)

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

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

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



536208

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

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

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

~~3. It is not a violation of s. 112.3143(2) or (4) for the officers or members of the board of directors of the Florida Tourism Industry Marketing Corporation to:~~

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

~~b. Participate in the establishment or calculation of payments related to the private match requirements of s. 288.904(3). The officer or member must file an annual disclosure describing the nature of his or her interests or the interests of his or her principals, including corporate parents and subsidiaries of his or her principal, in the private match requirements. This annual disclosure requirement satisfies the disclosure requirement of s. 112.3143(4). This disclosure must be placed either on the Florida Tourism Industry Marketing Corporation's website or included in the minutes of each meeting of the Florida Tourism Industry Marketing Corporation's board of~~



536208

~~directors at which the private match requirements are discussed
or voted upon.~~

Section 13. Section 288.923, Florida Statutes, is amended
to read:

288.923 ~~Division of~~ Tourism marketing; definitions;
responsibilities.—

~~(1) There is created within Enterprise Florida, Inc., the
Division of Tourism Marketing.~~

~~(2)~~ As used in this section, the term:

(a) "Tourism marketing" means any effort exercised to
attract domestic and international visitors from outside the
state to destinations in this state and to stimulate Florida
resident tourism to areas within the state.

(b) "Tourist" means any person who participates in trade or
recreation activities outside the county of his or her permanent
residence or who rents or leases transient living quarters or
accommodations as described in s. 125.0104(3) (a).

(c) "County destination marketing organization" means a
public or private agency that is funded by local option tourist
development tax revenues under s. 125.0104, or local option
convention development tax revenues under s. 212.0305, and is
officially designated by a county commission to market and
promote the area for tourism or convention business or, in any
county that has not levied such taxes, a public or private
agency that is officially designated by the county commission to
market and promote the area for tourism or convention business.

(d) "Direct-support organization" means the Florida Tourism
Industry Marketing Corporation.

(2)(3) The Department of Economic Opportunity ~~Enterprise~~



536208

~~Florida, Inc.,~~ shall contract with the Florida Tourism Industry Marketing Corporation, a direct-support organization established in s. 288.1226, to execute tourism promotion and marketing services, functions, and programs for the state, including, but not limited to, the activities prescribed by the 4-year marketing plan. ~~The division shall assist to maintain and implement the contract.~~

~~(3)-(4)~~ The department's ~~division's~~ responsibilities and duties include, but are not limited to:

(a) Maintaining and implementing the contract with the Florida Tourism Industry Marketing Corporation.

(b) Ensuring that the corporation develops ~~Advising the department and Enterprise Florida, Inc., on development of~~ domestic and international tourism marketing campaigns featuring Florida.

(c) Developing, in collaboration with the corporation, a 4-year marketing plan.

1. At a minimum, the marketing plan shall discuss the following:

- a. Continuation of overall tourism growth in this state.
- b. Expansion to new or under-represented tourist markets.
- c. Maintenance of traditional and loyal tourist markets.
- d. Coordination of efforts with county destination marketing organizations, other local government marketing groups, privately owned attractions and destinations, and other private sector partners to create a seamless, four-season advertising campaign for the state and its regions.

e. Development of innovative techniques or promotions to build repeat visitation by targeted segments of the tourist



536208

population.

f. Consideration of innovative sources of state funding for tourism marketing.

g. Promotion of nature-based tourism and heritage tourism.

h. Development of a component to address emergency response to natural and manmade disasters from a marketing standpoint.

2. The plan shall be annual in construction and ongoing in nature. Any annual revisions of the plan shall carry forward the concepts of the remaining 3-year portion of the plan and consider a continuum portion to preserve the 4-year timeframe of the plan. The plan also shall include recommendations for specific performance standards and measurable outcomes for the ~~division and direct-support organization. The department, in consultation with the board of directors of Enterprise Florida, Inc.,~~ shall base the actual performance metrics on these recommendations.

3. The 4-year marketing plan shall be developed in collaboration with the Florida Tourism Industry Marketing Corporation. The plan shall be annually reviewed and approved by the department ~~board of directors of Enterprise Florida, Inc.~~

(d) Drafting and submitting an annual report ~~required by s. 288.92.~~ The annual report shall set forth for the department ~~division~~ and the direct-support organization:

1. Operations and accomplishments during the fiscal year, including the economic benefit of the state's investment and effectiveness of the marketing plan.

2. The 4-year marketing plan, including recommendations on methods for implementing and funding the plan.

3. The assets and liabilities of the direct-support



536208

organization at the end of its most recent fiscal year.

4. A copy of the annual financial and compliance audit conducted under s. 288.1226(7) ~~288.1226(6)~~.

~~(5) Notwithstanding s. 288.92, the division shall be staffed by the Florida Tourism Industry Marketing Corporation. Such staff shall not be considered to be employees of the division and shall remain employees of the Florida Tourism Industry Marketing Corporation. Section 288.905 does not apply to the Florida Tourism Industry Marketing Corporation.~~

(4)~~(6)~~ This section is repealed October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Section 14. Notwithstanding s. 290.016, Florida Statutes, enterprise zone boundaries in existence before December 31, 2015, are preserved for the purpose of allowing local governments to administer local incentive programs within these boundaries through December 31, 2020, except for eligible contiguous multi-phase projects in which at least one certificate of use or occupancy has been issued before December 31, 2015 and which project will then vest the remaining project phases until completion, but no later than December 31, 2025.

Section 15. This act shall take effect July 1, 2017.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to economic programs; amending s.
11.45, F.S.; authorizing the Auditor General to audit



536208

the corporation; authorizing the corporation to enter into an agreement with the Department of Economic Opportunity for certain purposes and to use certain funds; providing legislative intent; authorizing the Florida Tourism Industry Marketing Corporation to enter into an agreement with the Department of Economic Opportunity for specified purposes; authorizing the corporation to use certain funds for the original purposes for which the funds were received; providing legislative intent; amending s. 272.11, F.S.; transferring responsibility for the Capitol information center from Enterprise Florida, Inc., to the department; authorizing the department to contract with VISIT Florida for the management and operation of the center; amending s. 288.017, F.S.; authorizing the department, rather than Enterprise Florida, Inc., to establish and operate a cooperative advertising matching grants program; authorizing the department to contract with VISIT Florida to administer such program; requiring the department, rather than Enterprise Florida, Inc., to conduct an annual competitive selection process for the award of program grants; removing a requirement that the department consider certain recommendations from Enterprise Florida, Inc., in evaluating program grant applications; amending s. 288.1226, F.S.; providing that the corporation is a direct-support organization of the department, rather than Enterprise Florida, Inc.; revising the purposes for which the corporation



536208

is an agency; requiring the corporation to comply with certain per diem and travel expense provisions; providing corporation board members and officers with certain voting authority; requiring such officers and members to file a certain annual disclosure; requiring that such disclosure be placed on the corporation's website; authorizing reimbursement for per diem and travel expenses for corporation board members; requiring such expenses to be paid out of corporation funds; subjecting certain contracts to specified notice and review procedures; prohibiting the execution of certain contracts; limiting the amount of compensation paid to corporation officers, agents, and employees; prohibiting certain performance bonuses and severance pay; requiring the corporation to appoint its president and chief executive officer, subject to Senate confirmation; prohibiting the corporation from creating or establishing certain entities and expending certain funds that benefit only one entity; requiring a one-to-one match of private to public contributions to the corporation; providing private contribution categories to use when calculating such match; prohibiting certain contributions from being considered private contributions for purposes of such match; requiring the reversion of unmatched public contributions to the state treasury by a certain date annually; requiring a quarterly report to the department; requiring the corporation to provide certain data to the Office of Economic and Demographic



536208

997 Research; prohibiting the expenditure of corporation
998 funds for certain purposes; prohibiting the acceptance
999 or receipt of certain items or services from certain
1000 entities; removing a public records exemption;
1001 limiting certain expenses of corporation employees;
1002 providing an exception; specifying a procedure for the
1003 release of appropriated funds; providing that the
1004 corporation is a governmental entity and subject to
1005 the Transparency Florida Act; requiring the inclusion
1006 of specified information in certain corporation
1007 contracts and on the corporation's website; requiring
1008 specified functionality of the corporation's website;
1009 requiring marketing partners to provide annual reports
1010 containing specified financial data to the
1011 corporation; conforming provisions to changes made by
1012 the act; amending s. 288.12265, F.S.; transferring
1013 responsibility for administering and operating welcome
1014 centers from Enterprise Florida, Inc., to the
1015 department; amending s. 288.124, F.S.; authorizing
1016 VISIT Florida, rather than Enterprise Florida, Inc.,
1017 to establish a convention grants program and
1018 guidelines governing the award of program grants and
1019 the administration of such program; amending s.
1020 288.901, F.S.; providing that Enterprise Florida,
1021 Inc., board members serve without compensation but are
1022 entitled to certain per diem and travel expenses;
1023 requiring such expenses to be paid from Enterprise
1024 Florida, Inc., funds; amending s. 288.903, F.S.;
1025 requiring Enterprise Florida, Inc., to submit certain



536208

1026 proposed contracts for notice and review; prohibiting
1027 Enterprise Florida, Inc., from executing a proposed
1028 contract under certain circumstances; providing
1029 applicability; prohibiting Enterprise Florida, Inc.,
1030 from creating or establishing any other entity,
1031 corporation, or direct-support organization unless
1032 authorized by law; requiring Enterprise Florida, Inc.,
1033 to comply with certain per diem and travel expenses;
1034 amending s. 288.904, F.S.; providing that certain
1035 contributions from specified entities are not
1036 considered private contributions for specified
1037 purposes; deleting provisions relating to certain
1038 marketing and advertising activities requiring a one-
1039 to-one match of private to public contributions within
1040 a certain timeframe; providing that Enterprise
1041 Florida, Inc., is a governmental entity for specified
1042 purposes and is subject to the Transparency Florida
1043 Act; providing requirements for certain contracts
1044 entered into between Enterprise Florida, Inc., and any
1045 other entity; requiring certain partners of Enterprise
1046 Florida, Inc., to annually report certain financial
1047 date to Enterprise Florida, Inc.; requiring Enterprise
1048 Florida, Inc., to post specified information on its
1049 website; providing requirements for the website;
1050 amending s. 288.905, F.S.; providing that the
1051 president of the board of directors of Enterprise
1052 Florida, Inc., serves subject to confirmation by the
1053 Senate instead of the Governor; prohibiting employees,
1054 including an officer, agent, the president, and the



536208

1055 chief executive officer of Enterprise Florida, Inc.,
1056 from receiving public compensation for employment over
1057 a certain amount; prohibiting certain payments and
1058 performance bonuses or severance pay under certain
1059 circumstances; limiting certain lodging expenses;
1060 prohibiting funds of Enterprise Florida, Inc., from
1061 being uses for certain expenses; prohibiting employees
1062 and board members of Enterprise Florida, Inc., from
1063 accepting or receiving certain gifts from certain
1064 entities; amending s. 288.92, F.S.; removing a
1065 requirement that Enterprise Florida, Inc., include a
1066 division related to tourism marketing; conforming
1067 provisions to changes made by the act; amending s.
1068 288.923, F.S.; terminating the Division of Tourism
1069 Marketing created within Enterprise Florida, Inc.;
1070 transferring duties and authority to contract with the
1071 corporation from Enterprise Florida, Inc., to the
1072 department; conforming a provision to changes made by
1073 the act; preserving certain enterprise zone boundaries
1074 for a specified timeframe for specified purposes;
1075 providing an effective date.

By the Committee on Commerce and Tourism; and Senator Montford

577-03941-17

20171306c1

1 A bill to be entitled
 2 An act relating to economic programs; amending s.
 3 20.60, F.S.; requiring the Department of Economic
 4 Opportunity to contract with a direct-support
 5 organization to promote the sports industry and the
 6 participation of residents in certain athletic
 7 competitions in this state and to promote the state as
 8 a host for certain athletic competitions; reviving,
 9 reenacting, and amending s. 288.1229, F.S., relating
 10 to the promotion and development of sports-related
 11 industries and amateur athletics; requiring the
 12 department to establish a direct-support organization
 13 known as the "Florida Sport Foundation," rather than
 14 authorizing the Office of Tourism, Trade, and Economic
 15 Development to authorize a direct-support
 16 organization, to assist the department in certain
 17 promotion and development activities; specifying the
 18 purpose of the foundation; specifying requirements for
 19 the foundation, including appointment of its board of
 20 directors; deleting a provision prohibiting board
 21 members from serving more than two consecutive terms;
 22 requiring that the foundation operate under written
 23 contract with the department; specifying provisions
 24 that must be included in the contract; authorizing the
 25 department to allow the foundation to use certain
 26 facilities, personnel, and services if it complies
 27 with certain provisions; requiring an annual financial
 28 audit of the foundation; providing that the foundation
 29 is not granted any taxing power; deleting certain

Page 1 of 15

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

577-03941-17

20171306c1

30 provisions related to the Office of Tourism, Trade,
 31 and Economic Development and a specified direct-
 32 support organization; specifying the duties of the
 33 foundation; deleting residency requirements for
 34 participants of the Sunshine State Games; deleting
 35 certain competition requirements; authorizing the
 36 department, rather than the Executive Office of the
 37 Governor, to allow the use of certain property,
 38 facilities, and personal services under certain
 39 circumstances; conforming provisions to changes made
 40 by the act; amending s. 288.9937, F.S.; requiring the
 41 Office of Program Policy Analysis and Government
 42 Accountability to analyze and evaluate the first 3
 43 years of certain programs; requiring the Office of
 44 Program Policy Analysis and Government Accountability,
 45 rather than the Office of Economic and Demographic
 46 Research, to identify inefficiencies in certain
 47 programs and to recommend changes to such programs;
 48 revising the date by which the Office of Economic and
 49 Demographic Research must submit a report to the
 50 Legislature; requiring the Office of Program Policy
 51 Analysis and Government Accountability to submit a
 52 report to the Legislature by a specified date;
 53 amending s. 320.08058, F.S.; conforming provisions to
 54 changes made by the act; amending uses of the proceeds
 55 of certain license plates; providing an effective
 56 date.

57
 58 Be It Enacted by the Legislature of the State of Florida:

Page 2 of 15

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

577-03941-17

20171306c1

Section 1. Paragraph (g) is added to subsection (4) of section 20.60, Florida Statutes, to read:

20.60 Department of Economic Opportunity; creation; powers and duties.—

(4) The purpose of the department is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. To accomplish such purposes, the department shall:

(g) Notwithstanding part I of chapter 287, contract with the direct-support organization established under s. 288.1229 to guide, stimulate, and promote the sports industry in this state; to promote the participation of residents of this state in amateur athletic competitions; and to promote this state as a host for national and international amateur athletic competitions.

Section 2. Notwithstanding the repeal of section 288.1229, Florida Statutes, in section 485 of chapter 2011-142, Laws of Florida, section 288.1229, Florida Statutes, is revived, readopted, and amended to read:

288.1229 Promotion and development of sports-related industries and amateur athletics; direct-support organization established; powers and duties.—

(1) The Department of Economic Opportunity shall establish a direct-support organization known as the "Florida Sports Foundation." ~~The foundation shall The Office of Tourism, Trade, and Economic Development may authorize a direct-support~~

577-03941-17

20171306c1

~~organization~~ to assist the department office in:

(a) The promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida.

(b) The promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions.

(c) The retention of professional sports franchises, including the spring training operations of Major League Baseball.

(2) The Florida Sports Foundation ~~To be authorized as a direct-support organization, an organization~~ must:

(a) Be incorporated as a corporation not for profit pursuant to chapter 617.

(b) 1. Be governed by a board of directors, which must consist of 20 ~~up to 15~~ members appointed by the Governor as follows:

a. Ten members representing Florida professional sports franchises of Major League Baseball, the National Basketball Association, the National Football League, the Arena Football League, the National Hockey League, and the Major League Soccer teams domiciled in this state.

b. Two member representing Florida sports commissions.

c. One member representing the boating and fishing industries in Florida.

d. One member representing the golf industry in Florida.

e. One member representing Major League Baseball spring

577-03941-17

20171306c1

117 training.

118 f. One member representing the automobile racing industry
 119 in Florida.

120 g. Four members-at-large and up to 15 members appointed by
 121 the existing board of directors. In making at-large
 122 appointments, the Governor ~~board~~ must consider a potential
 123 member's background in community service and sports activism in,
 124 and financial support of, the sports industry, professional
 125 sports, or organized amateur athletics. Members must be
 126 residents of the state and highly knowledgeable about or active
 127 in professional or organized amateur sports. ~~The board must~~

128 2. In the membership of its board of directors, contain
 129 representatives of all geographical regions of the state and
 130 ~~must~~ represent ethnic and gender diversity. The terms of office
 131 of the members shall be 4 years. ~~No member may serve more than~~
 132 ~~two consecutive terms.~~ The Governor may remove any member for
 133 cause and shall fill all vacancies that occur.

134 (c) Have as its purpose, as stated in its articles of
 135 incorporation, to receive, hold, invest, and administer
 136 property; to raise funds and receive gifts; and to promote and
 137 develop the sports industry and related industries for the
 138 purpose of increasing the economic presence of these industries
 139 in Florida.

140 (d) Have a prior determination by the department ~~Office of~~
 141 ~~Tourism, Trade, and Economic Development~~ that the organization
 142 will benefit the department ~~office~~ and act in the best interests
 143 of the state as a direct-support organization to the department
 144 ~~office.~~

145 (3) The Florida Sports Foundation shall operate under

577-03941-17

20171306c1

146 written contract with the department. The department shall enter
 147 into a contract with the foundation by July 1, 2017. The
 148 ~~contract must provide Office of Tourism, Trade, and Economic~~
 149 ~~Development shall contract with the organization and shall~~
 150 ~~include in the contract~~ that:

151 (a) The department ~~office~~ may review the foundation's
 152 ~~organization's~~ articles of incorporation.

153 (b) The foundation ~~organization~~ shall submit an annual
 154 budget proposal to the department ~~office~~, on a form provided by
 155 the department ~~office~~, in accordance with department ~~office~~
 156 procedures for filing budget proposals based upon the
 157 recommendation of the department ~~office~~.

158 (c) Any funds that the foundation ~~organization~~ holds in
 159 trust will revert to the state upon the expiration or
 160 cancellation of the contract.

161 (d) The foundation ~~organization~~ is subject to an annual
 162 financial and performance review by the department ~~office~~ to
 163 determine whether the foundation ~~organization~~ is complying with
 164 the terms of the contract and whether it is acting in a manner
 165 consistent with the goals of the department ~~office~~ and in the
 166 best interests of the state.

167 (e) The fiscal year of the foundation ~~begins~~ ~~organization~~
 168 ~~will begin~~ July 1 of each year and ~~ends~~ ~~end~~ June 30 of the next
 169 ~~ensuing~~ year.

170 (4) The department ~~Office of Tourism, Trade, and Economic~~
 171 ~~Development~~ may allow the foundation ~~organization~~ to use the
 172 property, facilities, personnel, and services of the department
 173 ~~office~~ if the foundation ~~organization~~ provides equal employment
 174 opportunities to all persons regardless of race, color,

577-03941-17 20171306c1

religion, sex, age, or national origin, subject to the approval of the executive director of the department office.

(5) The foundation organization shall provide for an annual financial audit in accordance with s. 215.981.

(6) The foundation organization is not granted any taxing power.

~~(7) In exercising the power provided in this section, the Office of Tourism, Trade, and Economic Development may authorize and contract with the direct support organization existing on June 30, 1996, and authorized by the former Florida Department of Commerce to promote sports-related industries. An appointed member of the board of directors of such direct support organization as of June 30, 1996, may serve the remainder of his or her unexpired term.~~

(7)(8) To promote amateur sports and physical fitness, the foundation direct support organization shall:

(a) Develop, foster, and coordinate services and programs for amateur sports for the people of Florida.

(b) Sponsor amateur sports workshops, clinics, conferences, and other similar activities.

(c) Give recognition to outstanding developments and achievements in, and contributions to, amateur sports.

(d) Encourage, support, and assist local governments and communities in the development of or hosting of local amateur athletic events and competitions.

(e) Promote Florida as a host for national and international amateur athletic competitions.

(f) Develop ~~a~~ statewide programs program of amateur athletic competition to be known as the "Florida Senior Games"

577-03941-17 20171306c1

and the "Sunshine State Games."

(g) Continue the successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports created under former s. 14.22.

(h) Encourage and continue the use of volunteers in its amateur sports programs to the maximum extent possible.

(i) Develop, foster, and coordinate services and programs designed to encourage the participation of Florida's youth in Olympic sports activities and competitions.

(j) Foster and coordinate services and programs designed to contribute to the physical fitness of the citizens of Florida.

(8)(9)(a) The Florida Senior Games and the Sunshine State Games shall both be patterned after the Summer Olympics with variations as necessitated by availability of facilities, equipment, and expertise. The games shall be designed to encourage the participation of athletes representing a broad range of age groups, skill levels, and Florida communities. ~~Participants shall be residents of this state. Regional competitions shall be held throughout the state, and the top qualifiers in each sport shall proceed to the final competitions to be held at a site in the state with the necessary facilities and equipment for conducting the competitions.~~

(b) The department may authorize ~~Executive Office of the Governor is authorized to permit~~ the use of property, facilities, and personal services of or at any State University System facility or institution by the direct-support organization operating the Florida Senior Games and the Sunshine State Games. For the purposes of this paragraph, personal

577-03941-17

20171306c1

services includes full-time or part-time personnel as well as payroll processing.

Section 3. Section 288.9937, Florida Statutes, is amended to read:

288.9937 Evaluation of programs.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability shall analyze and evaluate, and determine the economic benefits, as defined in s. 288.005, of the first 3 years of the Microfinance Loan Program and the Microfinance Guarantee Program. The analysis by the Office of Economic and Demographic Research must determine the economic benefits, as defined in s. 288.005, and ~~also~~ evaluate the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state's investment. The analysis by the Office of Program Policy Analysis and Government Accountability must ~~also~~ identify any inefficiencies in the programs and provide recommendations for changes to the programs. Each ~~The~~ office shall submit a report to the President of the Senate and the Speaker of the House of Representatives by January 15 ~~4~~, 2018. This section expires January 31, 2018.

Section 4. Paragraph (a) of subsection (6), paragraph (b) of subsection (9), paragraph (a) of subsection (35), subsection (60), and paragraph (b) of subsection (64) of section 320.08058, Florida Statutes, are amended to read:

320.08058 Specialty license plates.—

(6) FLORIDA UNITED STATES OLYMPIC COMMITTEE LICENSE PLATES.—

(a) Because the United States Olympic Committee has

577-03941-17

20171306c1

selected this state to participate in a combined fundraising program that provides for one-half of all money raised through volunteer giving to stay in this state and be administered by ~~the Florida Sports Foundation Enterprise Florida, Inc.,~~ to support amateur sports, ~~and~~ because the United States Olympic Committee and ~~the Florida Sports Foundation Enterprise Florida, Inc.,~~ are nonprofit organizations dedicated to providing athletes with support and training and preparing athletes of all ages and skill levels for sports competition, ~~and~~ because the Florida Sports Foundation Enterprise Florida, Inc., assists in the bidding for sports competitions that provide significant impact to the economy of this state, and because the Legislature supports the efforts of the United States Olympic Committee and ~~the Florida Sports Foundation Enterprise Florida, Inc.,~~ the Legislature establishes a Florida United States Olympic Committee license plate for the purpose of providing a continuous funding source to support this worthwhile effort. Florida United States Olympic Committee license plates must contain the official United States Olympic Committee logo and must bear a design and colors that are approved by the department. The word "Florida" must be centered at the top of the plate.

(9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

(b) The license plate annual use fees are to be annually distributed as follows:

1. Fifty-five percent of the proceeds from the Florida Professional Sports Team plate must be deposited into the Professional Sports Development Trust Fund within the Department of Economic Opportunity. These funds must be used solely to

577-03941-17

20171306c1

291 attract and support major sports events in this state. As used
 292 in this subparagraph, the term "major sports events" means, but
 293 is not limited to, championship or all-star contests of Major
 294 League Baseball, the National Basketball Association, the
 295 National Football League, the National Hockey League, Major
 296 League Soccer, the men's and women's National Collegiate
 297 Athletic Association championships ~~Final Four basketball~~
 298 ~~championship~~, or a horseracing or dogracing Breeders' Cup. All
 299 funds must be used to support and promote major sporting events,
 300 and the uses must be approved by the Department of Economic
 301 Opportunity.

302 2. The remaining proceeds of the Florida Professional
 303 Sports Team license plate must be allocated to the Florida
 304 Sports Foundation Enterprise Florida, Inc. These funds must be
 305 deposited into the Professional Sports Development Trust Fund
 306 within the Department of Economic Opportunity. These funds must
 307 be used by the Florida Sports Foundation Enterprise Florida,
 308 ~~Inc.,~~ to promote the economic development of the sports
 309 industry; to distribute licensing and royalty fees to
 310 participating professional sports teams; ~~to promote education~~
 311 ~~programs in Florida schools that provide an awareness of the~~
 312 ~~benefits of physical activity and nutrition standards; to~~
 313 ~~partner with the Department of Education and the Department of~~
 314 ~~Health to develop a program that recognizes schools whose~~
 315 ~~students demonstrate excellent physical fitness or fitness~~
 316 ~~improvement;~~ to institute a grant program for communities
 317 bidding on minor sporting events that create an economic impact
 318 for the state; to distribute funds to Florida-based charities
 319 designated by the Florida Sports Foundation Enterprise Florida,

577-03941-17

20171306c1

320 ~~Inc.,~~ and the participating professional sports teams; and to
 321 fulfill the sports promotion responsibilities of the Department
 322 of Economic Opportunity.

323 3. The Florida Sports Foundation Enterprise Florida, Inc.,
 324 shall provide an annual financial audit in accordance with s.
 325 215.981 of its financial accounts and records by an independent
 326 certified public accountant pursuant to the contract established
 327 by the Department of Economic Opportunity as provided in s.
 328 288.1229(5). The auditor shall submit the audit report to the
 329 Department of Economic Opportunity for review and approval. If
 330 the audit report is approved, the Department of Economic
 331 Opportunity shall certify the audit report to the Auditor
 332 General for review.

333 4. Notwithstanding the provisions of subparagraphs 1. and
 334 2., proceeds from the Professional Sports Development Trust Fund
 335 may also be used for operational expenses of the Florida Sports
 336 Foundation Enterprise Florida, Inc., and financial support of
 337 the Florida Senior Games and the Sunshine State Games.

338 (35) FLORIDA GOLF LICENSE PLATES.—

339 (a) The Department of Highway Safety and Motor Vehicles
 340 shall develop a Florida Golf license plate as provided in this
 341 section. The word "Florida" must appear at the bottom of the
 342 plate. The Dade Amateur Golf Association, following consultation
 343 with the PGA TOUR, the Florida Sports Foundation Enterprise
 344 Florida, Inc., the LPGA, and the PGA of America, may submit a
 345 revised sample plate for consideration by the department.

346 (60) FLORIDA NASCAR LICENSE PLATES.—

347 (a) The department shall develop a Florida NASCAR license
 348 plate as provided in this section. Florida NASCAR license plates

577-03941-17

20171306c1

must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the term "NASCAR" must appear at the bottom of the plate. The National Association for Stock Car Auto Racing, following consultation with the Florida Sports Foundation Enterprise Florida, Inc., may submit a sample plate for consideration by the department.

(b) The license plate annual use fees shall be distributed to the Florida Sports Foundation Enterprise Florida, Inc. The license plate annual use fees shall be annually allocated as follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation Enterprise Florida, Inc. for the administration of the NASCAR license plate program.

2. The National Association for Stock Car Auto Racing shall receive up to \$60,000 in proceeds from the annual use fees to be used to pay startup costs, including costs incurred in developing and issuing the plates. Thereafter, 10 percent of the proceeds from the annual use fees shall be provided to the association for the royalty rights for the use of its marks.

3. The remaining proceeds from the annual use fees shall be distributed to the Florida Sports Foundation Enterprise Florida, Inc. ~~The Florida Sports Foundation Enterprise Florida, Inc.~~ will retain 15 percent to support its regional grant program, attracting sporting events to Florida; 20 percent to support the marketing of motorsports-related tourism in the state; and 50 percent to be paid to the NASCAR Foundation, a s. 501(c)(3) charitable organization, to support Florida-based charitable organizations.

577-03941-17

20171306c1

(c) ~~The Florida Sports Foundation Enterprise Florida, Inc.~~ shall provide an annual financial audit in accordance with s. 215.981 of its financial accounts and records by an independent certified public accountant pursuant to the contract established by the Department of Economic Opportunity as specified in s. 288.1229(5). The auditor shall submit the audit report to the Department of Economic Opportunity for review and approval. If the audit report is approved, the Department of Economic Opportunity shall certify the audit report to the Auditor General for review.

(64) FLORIDA TENNIS LICENSE PLATES.—

(b) The department shall distribute the annual use fees to the Florida Sports Foundation Enterprise Florida, Inc. The license plate annual use fees shall be annually allocated as follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation Enterprise Florida, Inc. to administer the license plate program.

2. The United States Tennis Association Florida Section Foundation shall receive the first \$60,000 in proceeds from the annual use fees to reimburse it for startup costs, administrative costs, and other costs it incurs in the development and approval process.

3. Up to 5 percent of the proceeds from the annual use fees may be used for promoting and marketing the license plates. The remaining proceeds shall be available for grants by the United States Tennis Association Florida Section Foundation to nonprofit organizations to operate youth tennis programs and adaptive tennis programs for special populations of all ages,

577-03941-17

20171306c1

407 and for building, renovating, and maintaining public tennis
408 courts.

409 Section 5. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1312

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Construction

DATE: April 24, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.	Present	Yeatman	CA	Fav/CS
3.	Davis	Hansen	AP	Pre-meeting
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1312 amends various provisions of the Florida Statutes relating to construction and the Florida Building Code. Specifically, the bill:

- Requires the Department of Business and Professional Regulation (DBPR) to use \$150,000 from the surcharge assessed on building permits to fund, for the 2017-2018 fiscal year, the University of Florida School of Construction Management continuation of the Construction Industry Workforce Taskforce (CIWT);
- Requires professional engineers to disclose whether they have professional liability insurance and, if so, the limits of the policy prior to contracting for engineering;
- Provides that a professional engineer may certify solar energy systems in lieu of the Florida Solar Energy Center;
- Provides that a pool/spa contractor is not required to subcontract electrical work relating to the installation, replacement, disconnection or reconnection of power wiring of the load side of the dedicated existing electrical disconnecting means, but is required to subcontract certain work related to the circuit breaker;
- Prohibits a political subdivision from adopting or enforcing ordinances or building permit requirements that conflict with corporate trademarks, service marks, logos, color patterns or other corporate branding on real property in connection with business activities related to the sale of liquid fuels or other franchises; providing for preemption of certain local laws and regulations; and providing for retroactive applicability;
- Requires the Florida Building Commission to:

- Amend the Florida Building Code-Energy Conservation to eliminate duplicative commissioning reporting requirements for HVAC and electrical systems;
- Authorize commissioning reports to be provided by a licensed design professional, electrical engineer, or mechanical engineer; and
- Adopt certain standards relating to the substitution of components for residential exterior doors;
- Prohibits the Florida Building Commission from adopting national energy conservation standards related to automatic lights;
- Prohibits special or independent districts from requiring the payment of additional fees, charges, or expenses related to providing proof of licensure and insurance coverage;
- Prohibits a county, municipality, special taxing district, public utility, or private utility from:
 - Requiring a separate water connection for a fire sprinkler system for a one-family or two-family dwelling if the dwelling's original water connection can meet the needs of the sprinkler system; or
 - Except under specified circumstances, charging a water or sewer rate for a larger water meter for a one-family or two-family dwelling because of the installation of a fire sprinkler system above that which is charged to a one-family and two-family dwelling with a base meter.
- Prohibits a local government from requiring an owner of a residence to obtain a permit to paint the residence, regardless of whether the residence is owned by a limited liability company;
- Includes municipal gas utilities in the exemption from construction contracting licensure requirements for public utilities;
- Requires the Department of Education, in conjunction with the Department of Economic Opportunity, to create a study to implement the recommendations of the CIWT report dated January 20, 2017. The Department of Education must provide the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives before January 9, 2018;
- Requires CareerSource Florida, Inc., to fund construction training programs using existing federal funds awarded to the corporation for training, and to use the previous statewide Florida ReBuilds program as an implementation model for such programs;
- Provides that the Florida Department of Education and the Florida Department of Economic Opportunity must develop a plan to implement the recommendations of the CIWT report, and submit the plan to the Taskforce by July 1, 2018;
- Provides that CareerSource Florida, Inc., must develop a plan to implement the recommendations of the Construction Industry Workforce Taskforce using existing federal funds and the Florida ReBuilds implementation model, and submit the plan to the Taskforce by July 1, 2018;
- Revises the process by which the Florida Building Code will be adopted such that the commission shall use the I-Codes, the National Electric Code, or other nationally adopted model codes and standards for updates to the Florida Building Code and shall review the most current updates of such codes;
- Requires the commission to adopt any provision from the International Code Council I-Codes (I-Codes), the National Electrical Code, or any other code necessary to maintain eligibility for federal funding from the National Flood Insurance Program, the Federal

Emergency Management Agency, and the United States Department of Housing and Urban Development;

- Provides that a technical advisory committee must receive a two-thirds vote, rather than a three-fourths vote, of the members present at the meeting in order to make a favorable recommendation to the commission;
- Provides that a technical amendment to the Florida Building Code related to water conservation practices or design criteria adopted by a local government is not rendered void when the Florida Building Code is updated if the amendment is necessary to protect or provide for more efficient use of water resources. However, any carried forward technical amendment is subject to review or modification under certain circumstances; and
- Requires the commission to adopt the Florida Building Code by a two-thirds vote of the members present.

The bill has a negative fiscal impact on state revenues and expenditures. The impact on local governments is indeterminate, but most likely insignificant. *See* Section V. Fiscal Impact Statement.

II. Present Situation:

The Florida Building Code and the Florida Building Commission

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1996, a study commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and an enhanced oversight role for the state in local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002. In 2004, for the second edition of the Florida Building Code, the state adopted the International Code Council I-Codes (I-Codes).² All subsequent Florida Building Codes have been adopted utilizing the I-Codes as the base code. The most recent Florida Building Code is the fifth edition, which is referred to as the 2014 Florida Building Code. The 2014 Florida Building Code went into effect June 30, 2015.³

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Apr. 18, 2017).

² The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." The ICC publishes I-Codes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All 50 states have adopted the I-Codes.

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Apr. 18, 2017).

The commission was statutorily created to implement the Florida Building Code. The commission, which is housed within the DBPR, is a 27-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code. The commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the Florida Building Code.⁴

Most substantive issues before the commission are vetted through a workgroup process. Consensus recommendations are developed and submitted by appointed representative stakeholder groups in an open process with several opportunities for public input.

According to the commission:

General consensus is a participatory process whereby, on matters of substance, the members strive for agreements which all of the members can accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on substantive decisions, and the Commission finds that 100 percent acceptance or support is not achievable, final decisions require at least 75 percent favorable vote of all members present and voting.⁵

Building Code Cycle

Under s. 553.73(7)(a), F.S., the commission must update the Florida Building Code every three years. When updating the Florida Building Code, the commission is required to use the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, the International Residential Code, and the International Electrical Code. These I-Codes form the foundation codes of the updated Florida Building Code.

Any amendments or modifications to the foundation codes found within the Florida Building Code remain in effect only until the effective date of a new edition of the Florida Building Code, every three years.⁶ At that point, the amendments or modifications to the foundation codes are removed, unless the amendments or modifications are related to state agency regulations or are related to the wind-resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties, which are carried forward into the next edition of the Florida Building Code.

When a provision of the current Florida Building Code is not part of the foundation codes, an industry member or another interested party must resubmit the provision to the commission

⁴ Section 553.74, F.S.

⁵ Florida Building Commission, Florida Building Commission Consensus-Building Process, available at http://www.floridabuilding.org/fbc/commission/FBC_0608/Commission/FBC_Discussion_and_Public_Input_Processes.htm (last visited Apr. 18, 2017).

⁶ Section 553.73(7)(g), F.S.

during the Florida Building Code adoption process in order to be considered for the next edition of the Florida Building Code.⁷

Amendments between Cycles

Section 553.73(8), F.S., authorizes the commission to approve amendments pursuant to the rule adoptions procedure in ch. 120, F.S., which are needed to address:

- Conflicts within the updated Florida Building Code;
- Conflicts between the updated Florida Building Code and the Florida Fire Prevention Code adopted pursuant to ch. 633, F.S.;
- Unintended results from the integration of the previously adopted Florida-specific amendments;
- Equivalency of standards;
- Changes to or inconsistencies with federal or state law; or
- Adoption of an updated edition of the National Electrical Code if the commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

However, the commission may not approve amendments that would weaken the construction requirements relating to wind resistance or the prevention of water intrusion.

The commission may also approve technical amendments to the Florida Building Code once a year for statewide or regional application if the amendment:⁸

- Is needed in order to accommodate the specific needs of Florida;
- Has a reasonable and substantial connection with the health, safety, and welfare of the general public;
- Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction;
- Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities; and
- Does not degrade the effectiveness of the Florida Building Code.

The 6th Edition of the Florida Building Code

The commission is currently conducting its rule development process for the 6th Edition of the Florida Building Code. Under s. 553.73(7)(e), F.S., a rule updating the Florida Building Code does not take effect until six months after the publication of the updated Florida Building Code. The 6th Edition of the Florida Building Code is tentatively expected to go into effect on December 31, 2017.⁹

⁷ Section 553.73(7)(g), F.S.

⁸ Section 553.73(9), F.S.

⁹ 6th Edition (2017) FBC Code Update Development Tasks, *available at* http://www.floridabuilding.org/fbc/thecode/2017_Code_Development/Timelines/FBC_WorkplanOption1-2015.pdf (Last visited Apr. 18, 2017).

The 6th Edition of the Florida Building Code will incorporate the latest version of the I-Codes (2015). The next edition of the I-Codes will be the 2018 I-Codes.

Voting Processes for the Technical Advisory Committees and the Commission

Under s. 553.73(3)(b), F.S., in order for a technical advisory committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the meeting, and at least half of the regular members must be present in order to conduct the meeting.

The Florida Administrative Code, under 61G20-2.002(7), F.A.C., provides a similar requirement for votes taken by the commission. Specifically, the provision provides that “the decision of the commission to approve a proposed amendment shall be by 75 percent vote. Those proposals failing to meet the vote requirement shall not be adopted.”

Solar Energy Systems

Florida Solar Energy Center

The Florida Statutes require that all solar energy systems¹⁰ manufactured or sold in the state must meet standards established by the Florida Solar Energy Center (FSEC or center).¹¹ To accomplish this, the Florida Statutes require the FSEC to:

- Identify the most reliable designs and types of solar energy systems by consulting with people in research centers who are engaged in researching and experimenting with solar energy systems;
- Develop and promulgate standards for solar energy systems;
- Establish criteria for testing the performance of solar energy systems; and
- Maintain the necessary capability for testing or evaluating performance of solar energy systems.¹²

The FSEC may accept test results from other persons or entities if the tests are conducted according to the criteria established by the center and if the testing entity does not have a vested interest in the manufacture, distribution, or sale of solar energy systems.¹³

The FSEC also accepts standards and certifications for solar thermal products from the Solar Rating and Certification Program (SRCC) and the International Association of Plumbing and Mechanical Officials (IAPMO).¹⁴

¹⁰ The term “solar energy systems” means equipment that collects and uses incident solar energy for water heating, space heating or cooling, or other applications which normally require a conventional source of energy such as petroleum products, natural gas, or electricity, and which performs primarily with solar energy. If solar energy is used in a supplemental way, only those components that collect and transfer solar energy are included. Section 377.705(3)(b), F.S.

¹¹ Section 377.705(4), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ Florida Solar Energy Center, *Testing and Certification*, <http://www.fsec.ucf.edu/En/certification-testing/index.htm>. SRCC produces solar thermal standards and certifications that are used globally. Solar Rating & Certification Corporation, *About Us – General*, <http://www.solar-rating.org/about/general.html>. IAPMO certifies solar thermal products for use in North America.

In 2009, the Office of Program Policy Analysis & Government Accountability (OPPAGA) reported that FSEC had a two-year backlog for testing and certifying solar energy systems, adversely affecting both manufacturers and citizens.¹⁵ However, in 2011, OPPAGA reported that the FSEC had eliminated the backlog and testing times were down to 129 days due to streamlined testing procedures.¹⁶

Professional Engineers

Current law provides that only professional engineers or licensed engineers may practice engineering in Florida. Engineers are regulated by the Florida Board of Professional Engineers (Board). The Board is responsible for reviewing applications, administering exams, licensing qualified applicants, and regulating and enforcing the proper practice of engineering in the state. The Board is comprised of 11 members appointed by the Governor and meets six times a year.¹⁷ Administrative, investigative, and prosecutorial services are provided to the Board by the Florida Engineers Management Corporation (FEMC).¹⁸ FEMC is a non-profit, single purpose corporation that operates through a contract with the Department of Business and Professional Regulation (DBPR).

In order to obtain licensure as a professional engineer, applicants must pass a fundamentals examination and a principles and practice examination, have good moral character, obtain a degree from a four year engineering curriculum, and have four years of engineering experience.¹⁹

Current law does not require professional engineers to maintain professional liability insurance unless the engineer is performing building inspection services.²⁰ A professional engineer is also not required to disclose to a client whether they maintain professional liability insurance. If the professional engineer does have professional liability insurance, they are not currently required to disclose the limits of such policy.

Construction Industry Workforce Taskforce Recommendations

In 2016, the Legislature created the Construction Industry Workforce Taskforce (CIWT) to address the construction industry labor force shortage in the state.²¹ The CIWT proposed a list of

International Association of Plumbing and Mechanical Officials, *Solar Product Certification*, <http://www.iapmort.org/Pages/SolarCertification.aspx> (last visited April 18, 2017).

¹⁵ OPPAGA, Report No. 09-17, *Florida Solar Energy Center Conducts Research and Development; Legislature Could Direct Fee Increases and Drop Certification Requirement*, p. 1 (March 2009), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0917rpt.pdf>.

¹⁶ OPPAGA, Report No. 11-19, *The Florida Solar Energy Center Eliminated the Backlog for Testing and Certification and Reduced its Reliance on State Funds*, p. 1 (September 2011), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1119rpt.pdf>.

¹⁷ The Florida Board of Professional Engineers, *About Florida Board of Professional Engineers*, <https://fbpe.org/about/about-fbpe/> (last visited on Apr. 18, 2017).

¹⁸ The Florida Board of Professional Engineers, *About Florida Engineers Management Corporation*, <https://fbpe.org/about/about-femc/> (last visited on Apr. 18, 2017).

¹⁹ Section 471.015, F.S.

²⁰ Section 471.033(1), F.S.

²¹ Chapter 2016-129, Laws of Fla.

recommendations to remediate the shortage of construction industry workers, including recommending that the Legislature:

- Expand the definition of a Local Educational Agency (LEA), as used in apprenticeship programs in Florida, to include institutions other than public schools, such as private training organization (for profit and nonprofit), labor unions, industry trade associations, or other community based organizations;
- Create a legislative study to consider the appropriateness of moving apprenticeship programs from the Department of Education (DOE) to the Department of Economic Opportunity (DEO), and to address and clarify how current apprenticeships are funded from the state to the LEAs and what options the LEAs have in how they spend apprenticeship funding;
- Require the DOE to recognize the National Center for Construction Education and Research curriculum, or other comparable national curriculum, as eligible for high school credits, college credits, and state supported scholarships (e.g., Bright Futures Scholarship Program);
- Provide additional state Career and Technical Education (CTE) support to be directed towards K-12 programs so that “shop” or other construction related programs are added back into CTE programs;
- Extend for four additional years the “sunset” timeframe for CIWT and provide funding of \$100,000 per year and a mechanism to obtain matching funds to continue to coordinate CIWT. Funding will be used to continue data collection and analysis, ongoing economic impact studies, and subsequent strategies, implementation planning, and follow up;
- Direct CareerSource Florida, Inc., (CSF) to set aside existing federal training dollars for construction training programs using the previous state-wide Florida reBuilds Initiative (FRI) as an implementation model;
- Provide funding from the existing DBPR “Building Permit Surcharge” trust fund that is dedicated to better code compliance through the recruitment and training of a qualified workforce;
- Allow for an alternative instructor certification process through the DOE that does not require certification through an LEA;
- Create a joint legislative audit committee to review compliance regarding use of building permit fees beyond the scope of supporting the building department activities; and
- Support the Building Officials Association of America, Inc., in the development of initiatives to further opportunities for potential building code enforcement professionals.²²

CareerSource Florida, Inc.

CSF is a not-for-profit corporation administratively housed within the DEO and is the principal workforce policy organization for the state. CSF designs and implements strategies that help Floridians enter, remain in, and advance in the workplace. CSF procures and disburses funds for workforce development.²³

Florida reBuilds Initiative

The FRI was a program formed in 2005 to counter the growing shortage of construction workers. The former Florida Agency for Workforce Innovation (AWI) performed a survey of 50,000

²² University of Florida, Florida Construction Workforce Taskforce 9-10 (January 27, 2017), <http://www.cce.ufl.edu/projects/current-projects/construction-workforce-taskforce/reports/>.

²³ Section 445.004, F.S.

employers, which identified 13,712 construction job vacancies. In order to tackle the issue, AWI sought to provide individuals with short-term, entry-level training to enable them to enter into the construction trades.²⁴

The FRI targeted areas for training programs were:

- Air Conditioning, Refrigeration, and Heating Technology (maximum of 240 class hours);
- Carpentry (maximum of 120 class hours);
- Dry wall (maximum of 120 class hours);
- Electricity (maximum of 240 class hours);
- Masonry (maximum of 80 class hours);
- Plumbing (maximum of 180 class hours); and
- Roofing (maximum of 120 class hours).

Participants were eligible for the FRI programs if they were 18 years of age, a United States citizen, and willing to commit to attend the full program. If an eligible participant registered for the program, they were entered into a database run by a regional workforce made available to educational providers. Once the educational provider recruited enough eligible participants and was authorized by AWI to begin the program, the participants were enrolled in classes lasting up to eight weeks.

The educational providers were reimbursed \$9 per class hour, up to the maximum hours identified per program area. Regional workforce boards were paid \$25 per participant in an approved program and \$250 per participant who was placed on a job site within 90 days of the program completion.²⁵

DBPR Building Permit Surcharge Trust Fund

Section 553.721, F.S., requires all local building departments assess and collect a 1.5 percent surcharge on any building permit issued by their agency for the purpose of enforcing the Florida Building Code. The surcharge assessment is paid directly by the individual or construction professional pulling the permit and is generally passed on to consumers through increased costs for construction. The local jurisdictions collect the assessment and remit the surcharge fees to the DBPR to fund the activities of the Florida Building Commission and the DBPR's Office of Codes and Standards. Local building departments are permitted to retain 10 percent of the surcharge amount they collect to fund participation of their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code.

²⁴ Florida Division of Emergency Management, *Lt. Governor Jennings Unveils Florida Rebuilds Initiative to Assist with Labor Shortage and Hurricane Recovery* (December 13, 2005), available at http://www.floridadisaster.org/eoc/eoc_Activations/Wilma05/Reports/FLRebuilds.pdf/.

²⁵ Florida Agency for Workforce Innovation, *Florida Rebuilds Program Operations*, available at http://floridajobs.org/pdg/Memos/FLReBuildsProgOp_Atchmnt_121305.pdf/.

Building Commissioning Reporting Requirements, Automatic Lights and Door Components

Building Commissioning Reports

The Florida Building Code defines “building commissioning” to mean that selected building systems have been designed, installed, and function according to the owner’s project requirements, construction documents, and the minimum requirements of the Florida Building Code.²⁶ Commissioning reports are performed by registered design professionals. A registered design professional is anyone licensed in Florida as an architect, landscape architect, professional engineer, or a land surveyor and mapper.²⁷

Section C408 of the fifth edition of the Florida Building Code (Energy Conservation) requires a commercial building to receive a commissioning report prior to receiving a passing mechanical final inspection. Heating, ventilation, air conditioning, and the lighting systems are tested in the report. The commissioning report includes:

- A commission plan which includes:
 - A description of the activities to accomplish in the report including the personnel intended to accomplish the activities;
 - A listing of the equipment, appliances, or systems to be tested, and a description of the tests to be performed;
 - The functions to be tested;
 - Conditions under which the test will be performed; and
 - Measurable criteria for performance.
- A preliminary report of tests and results which must identify:
 - Deficiencies found during testing that have not been corrected; and
 - Tests that cannot be performed because of climate conditions and the conditions required to perform the tests.
- A final report which includes:
 - Test results;
 - Disposition of deficiencies found during testing; and
 - A test procedure used for repeatable testing outcomes.²⁸

Door components

Door components are the items such as the hinge, lockset, weatherstrip, trim, and rails that make up a door.

Section R612.9 of the fifth edition of the Florida Building Code (Residential) provides that residential door components may be substituted or interchanged in exterior door assemblies if the components have been approved by an approved product evaluation entity, certification agency, testing laboratory or engineer, and the door components provide equal or greater structural performance as demonstrated by accepted engineering practices.²⁹

²⁶ Section C202 of the 5th edition of the Florida Building Code (Energy Conservation).

²⁷ Section 725.08(4), F.S.

²⁸ Section C408 of the 5th edition of the Florida Building Code (Energy Conservation).

²⁹ Section R612.9 of the 5th edition of the Florida Building Code (Residential).

American National Standards Institute and World Millwork Alliance

The American National Standards Institute (ANSI) is a non-profit organization that aims to strengthen the U.S. market place, protect the environment, and assure the safety and health of consumers by creating and promulgating thousands of standards and guidelines.³⁰

The World Millwork Alliance (WMA) is a wholesale distribution association dedicated to the progression and prosperity of the millwork industry.³¹ The WMA also develops standards and is accredited by ANSI. In 2009, the WMA developed the WMA 100, a voluntary performance standard for side-hinged exterior doors. The WMA 100:

- Is approved by ANSI;
- Uses the ASTM E330 test method to obtain a full system design pressure rating;
- Defines methods for qualifying door system components for substitution in the rated system; and
- Outlines slab stiffness testing procedures for use in determining component substitution.³²

The ASTM E330 test is designed by the American Society for Testing and Materials International, and is a standard for determining the effects of a wind load on exterior building surface elements.³³ The fifth edition of the Florida Building Code (Residential) requires exterior doors with side hinges to either conform to the AAMA/WDMA/CSA 101/I.S.2/A440 or the ASTM E330.³⁴

American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard

The American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) is a society founded in 1894 that focuses on improving building systems, energy efficiency, indoor air quality, and refrigeration through research publishing, continuing education, and standards.³⁵

The ASHRAE energy conservation standard for buildings that are not low-rise residential buildings is Standard 90.1-2016 (Standard 90). Section 9.4.1.1(g) of Standard 90 provides that the general lighting power in an enclosed area of a building must automatically reduce by 50 percent within 20 minutes of all occupants leaving the area.³⁶

The most current version of the Florida Building Code adopted the 2010 version of Standard 90.³⁷ However, the 2010 version of Standard 90 does not include Section 9.4.1.1(g).³⁸ The draft

³⁰ ANSI, *About ANSI*, https://www.ansi.org/about_ansi/overview/overview?menuid=1 (last visited on Apr. 18, 2017).

³¹ WMA, *About*, <http://worldmillworkalliance.com/about/> (last visited on Apr. 18, 2017).

³² WMA, *ANSI/WMA 100*, <http://worldmillworkalliance.com/codes-and-standards/wma-100/> (last visited on Apr. 18, 2017).

³³ ASTM International, *Standard Test Method for Structural Performance of Exterior Windows, Doors, Skylights, and Curtain Walls by Uniform Static Air Pressure Difference*, <https://www.astm.org/Standards/E330.htm> (last visited on Apr. 18, 2017).

³⁴ Section R612.3 and R612.5 of the 5th edition of the Florida Building Code (Residential).

³⁵ ASHRAE, <https://www.ashrae.org/about-ashrae> (last visited on Apr. 18, 2017).

³⁶ ASHRAE, *Standard 90.1-2016: Energy Standards for Buildings Except Low-Rise Residential Buildings*, [https://ashrae.iwrapper.com/ViewOnline/Standard_90.1-2016_\(IP\)](https://ashrae.iwrapper.com/ViewOnline/Standard_90.1-2016_(IP)), (last visited Apr. 18, 2017).

³⁷ Section C405.7 of the 5th edition of the Florida Building Code (Energy Conservation).

³⁸ ASHRAE, *Standard 90.1-2010: Energy Standards for Buildings Except Low-Rise Residential Buildings*, http://www.usalighting.com/stuff/contentmgr/files/1/b90ce247855d0f17438484c003877338/misc/ashrae_90_1_2010.pdf, (last visited April 18, 2017).

of the 6th edition of the Florida Building Code (2017) does contain provisions that adopt this requirement.³⁹

Local Ordinances, Building Permits and Sign Requirements

Florida has adopted a uniform building code in accordance with s. 553.72, F.S. Section 553.79, F.S., as part of the Florida Building Codes Act, has provisions relating to permits, applications, issuance, and inspections pertaining to the Florida Building Code. Local jurisdictions ensure compliance with the Florida Building Code.

Local jurisdictions may set requirements for signs, and sign placement for local businesses by local ordinance.

The Florida Department of Agriculture and Consumer Services regulates gasoline service stations in accordance with ch. 526, F.S. There are approximately 9,000 gasoline stations within Florida.

Federal franchise laws give prospective purchasers of franchises material information needed to weigh risks and benefits of such investments. The Federal Trade Commission's regulations, 16 C.F.R. ss. 436.1, et. seq., require franchisors to provide all potential franchisees with a disclosure document containing 23 specific items of information about the offered franchise, its officers, and other franchisees. The Florida Franchise Act, s. 817.416, F.S., provides a private right of action to a civil litigant when a person makes certain misrepresentations related to franchises. Florida does not currently regulate private rights to contract related to franchising. Florida limits franchise regulation to antifraud, unfair trade practices, and creating rights for violations of federal franchise disclosure laws.

Local Government Fees

Section 553.80, F.S., provides that, except for construction regarding correctional and mental health facilities, elevators, storage facilities, educational institutions, and toll collection facilities, each local government and each legally constituted enforcement district with statutory authority shall regulate building construction. Section 553.80(7), F.S., authorizes local governments to provide a schedule of consistent reasonable fees to be used solely for carrying out the local government responsibilities in enforcing the Florida Building Code. The basis for the fee structure must relate to the level of service provided by the local government.

Local governments have created fee schedules to be submitted by contractors at the time of application for a building permit. These fees include inspection fees, plan examination fees, site examination fees, building permit fees (based on square footage of the building), and various administrative fees including re-permitting fees, time extension fees, re-inspection fees, and licensing fees.

Local governments may not require additional fees for:

³⁹ Department of Business and Professional Regulation, Bill Analysis for HB 1021, (Similar to SB 1312), dated March 28, 2017.

- Providing proof of licensure pursuant to ch. 489, F.S.;
- Recording or filing a license issued; and
- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.⁴⁰

Fire Prevention and Control

Florida's fire prevention and control law, ch. 633, F.S., designates the Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services, is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety and has the responsibility to minimize the loss of life and property in this state due to fire.⁴¹

One of the duties of the State Fire Marshal is to adopt by rule the Florida Fire Prevention Code (FFPC), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules, at ch. 69A-60, F.A.C. The State Fire Marshal adopts a new edition of the FFPC every three years.⁴²

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the FFPC as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code. These local enforcing authorities may adopt more stringent fire safety standards, subject to certain requirements in s. 633.208, F.S., but may not enact fire safety ordinances that conflict with ch. 633, F.S., or any other state law.⁴³

Construction Contracting Exemption for Public Utilities

Construction contractors are licensed and regulated under Part I of ch. 489, F.S., which provides that it is "necessary in the interest of the public health, safety, and welfare to regulate the construction industry." Construction contracting essentially means building or altering a structure for compensation.

In order to perform construction contracting a person must be licensed as a contractor, an employee of a contractor, or fall under one of the exemptions to licensure. Employees of a public utility are exempt from licensure. Public utilities include special gas districts, telecommunications companies, and natural gas transmission companies, "performing construction, maintenance, or development work, which includes, but is not limited to, work on bridges, roads, streets, highways, railroads, or work incidental to their business." Current law requires the DBPR to create a rule to define "work incidental to their business."⁴⁴

⁴⁰ Section 553.80(7), F.S.

⁴¹ Section 633.104, F.S.

⁴² Section 633.202, F.S.

⁴³ Sections 633.108, 633.208, and 633.214(4), F.S.

⁴⁴ Section 489.103(5), F.S.

The DBPR defined by rule “incidental to their business” to mean work performed exclusively on the supply side of the end use metering device, and excludes all work on the commercial side, house side, or customer side of the end use metering device except for inspections for leaks and the repair thereof, testing of water quality, ignition of pilot lights, and termination of or activation of natural gas flow.⁴⁵

A municipal gas utility is a natural gas utility owned and/or operated by a municipality engaged in serving residential, commercial, and/or industrial customers, usually within the boundaries of the municipality. There are currently 25 municipal gas districts in Florida.⁴⁶

Pool/Spa Contractors

Three types of pool/spa contractors may be licensed in Florida, including commercial pool/spa contractors, residential pool contractors, and swimming pool/spa servicing contractors.⁴⁷ Each type of contractor may engage in the scope of work specified s. 489.105(3), F.S., as follows:

- For commercial pool/spa contractors, the scope of work involves, but is not limited to, the *construction, repair, and servicing of any* swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use;⁴⁸
- For residential pool/spa contractors, the scope of work involves, but is not limited to, the *construction, repair, and servicing of a residential* swimming pool, or hot tub or spa, regardless of use;⁴⁹ and
- For swimming pool/spa servicing contractors means a contractor whose scope of work involves, but is not limited to, the *repair and servicing of a swimming pool, or hot tub or spa, whether public or private, or otherwise*, regardless of use.⁵⁰

⁴⁵ Rule 61G4-12.011(10), F.A.C.

⁴⁶ *Id.*

⁴⁷ See ss. 489.105(3)(j), (k), and (l), F.S.

⁴⁸ The scope of work for commercial pool/spa contractors also includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(j), F.S.

⁴⁹ The scope of work for residential pool/spa contractors also includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(k), F.S.

⁵⁰ The scope of work includes the repair or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior refinishing, the reinstallation or addition of pool heaters, the repair or replacement of all perimeter piping and filter piping,

A license is not required for the cleaning of a pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

Specialty Swimming Pool Contractors

Specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays, including:

- Swimming Pool Layout Specialty Contractors are limited to the layout, shaping, steel installation, and rough piping;
- Swimming Pool Structural Specialty Contractors are limited to the shaping and shooting of gunite, shotcrete, concrete, or similar product mix, and installation of fiberglass shells and vinyl liners;
- Swimming Pool Excavation Specialty Contractors are limited to excavation and earthmoving;
- Swimming Pool Trim Specialty Contractors are limited to the installation of tile and coping, and decorative or interactive water displays or areas that use recirculated water, including waterfalls and spray nozzles;
- Swimming Pool Decking Specialty Contractors are limited to the construction and installation of concrete flatwork, pavers and bricks, retaining walls, and footings;
- Swimming Pool Piping Specialty Contractors are limited to the installation of piping or the installation of circulating, filtering, disinfecting, controlling, or monitoring equipment and devices for pools, spas, hot tubs, and decorative or interactive water displays or areas; and
- Swimming Pool Finishes Specialty Contractors are limited to the coating or plastering of the interior surfaces.⁵¹

III. Effect of Proposed Changes:

Section 1 amends s. 377.705, F.S., to authorize solar systems manufactured or sold in the state to be approved by the Florida Solar Energy Center or by an engineer licensed pursuant to ch. 471, F.S., using the standards contained in the most recent version of the Florida Building Code.

Section 2 amends s. 471.033, F.S., to authorize the Board of Professional Engineers to take disciplinary action under s. 471.033(3), F.S., against a licensee who fails to disclose to a customer before contracting for engineering service whether the licensee maintains professional liability insurance and the policy limits if the licensee does maintain such insurance.

the repair of equipment rooms or housing for pool/spa equipment, and the substantial or complete draining of a swimming pool, or hot tub or spa, for the purpose of repair or renovation. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, substantial or complete disassembly, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure *unless the usage involves construction, modification, substantial or complete disassembly, or replacement of such equipment*. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(l), F.S.

⁵¹ See Fla. Admin. Code R. 61G4-15.032 (2016).

Section 3 amends s. 489.103, F.S., to exempt employees of municipal gas utilities performing construction, maintenance, or development work from the contractor licensing requirements of Part I of ch. 489, F.S. The bill also removes the requirement that work done by public utility employees must be “incidental to their business” in order to qualify for the licensure exemption and removes the Department of Business and Professional Regulation’s (DBPR) rulemaking authority to define the term “incidental to their business.”

Section 4 amends s. 489.113, F.S., to provide that pool/spa contractors are not required to subcontract electrical work for the installation, replacement, disconnection, or reconnection of power wiring on the load side of the dedicated existing electrical disconnecting work. Current law requires that unless a contractor holds a state certificate or registration in a trade category, all electrical work must be subcontracted (as must all mechanical, plumbing, roofing, sheet metal, swimming pool, and air-conditioning work). Pool/spa contractors, however, would continue to be required to subcontract all electrical work that requires the installation, removal, replacement, or upgrading of a circuit breaker. The bill provides that the revised subcontracting requirement for pool/spa contractors does not apply to other contractor classifications or professions.

Section 5 amends s. 553.721, F.S., related to the surcharge assessed on building permits at the rate of 1.5 percent of the permit fees. The surcharge is for the DBPR’s use in administering and enforcing the Florida Building Code. The bill requires the DBPR to provide \$150,000 in the 2017-2018 fiscal year to the University of Florida, M.E. Rinker, Sr., School of Construction Management for the continuation of the Construction Industry Workforce Task Force (CIWT).

Section 6 amends s. 553.73, F.S., to require the Florida Building Commission (commission) to use the International Code Council, the National Electric Code (NEPA), or other nationally adopted model codes and standards for updates to the Florida Building Code. The commission shall adopt an updated Florida Building Code every three years through reviews of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are copyrighted and published by the International Code Council, and the National Electrical Code, which is copyrighted and published by the National Fire Protection Association. At a minimum, the commission must adopt any provision from the International Code Council I-codes (I-Codes), the National Electric Code, or any other code that is necessary to maintain eligibility for federal funding from the National Flood Insurance Program, the Federal Emergency Management Agency, and the United States Department of Housing and Urban Development. The commission shall also review and adopt updates based substantially on the International Energy Conservation Code; however, the commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction pursuant to s. 553.901, F.S. The commission shall adopt updated codes by rule.

Amendments and modifications, other than local amendments under s. 553.73(4), F.S., to the Florida Building Code, will now remain effective when a new edition of the Florida Building Code is published.

In order for a technical advisory committee to make a favorable recommendation to the commission, the proposal must receive a two-thirds vote of the members present at the meeting. Current law requires a three-fourths vote of the members present at the meeting.

The bill also provides that a technical amendment to the Florida Building Code related to water conservation practices or design criteria adopted by a local government is not rendered void when the Florida Building Code is updated if the amendment is necessary to protect or provide for more efficient use of water resources as provided in s. 373.621, F.S. However, any such technical amendment carried forward into the next edition of the Florida Building Code is subject to review or modification.

The bill removes references to Florida-specific amendments because the entire building code will now be Florida-specific. The bill also makes other conforming and clarifying changes in terminology.

The bill prohibits the commission from adopting the 2016 version of the American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard (ASHRAE) Standard 9.4.1.1(g) or any provision that requires a door located in the opening between a garage and a residence to be equipped with a self-closing device.

Section 7 amends s. 553.76, F.S., to require the commission to adopt the Florida Building Code, and amendments thereto, by a two-thirds vote of the members present.

Section 8 amends s. 553.79, F.S., to prohibit political subdivisions of the state from adopting or enforcing ordinances, or imposing building permits or other development order requirements that:

- Contain any building, construction, or aesthetic requirement or condition that conflicts with or impairs corporate trademarks, service marks, trade dress, logos, color patterns, design scheme insignia, image standards, or other features of corporate branding identity on real property or improvements thereon used in activities conducted under ch. 526, F.S., related to the sale of liquid fuels, or in carrying out business franchise activities, as defined by Federal Trade Commission regulations in 16 C.F.R. ss. 436.1, et. seq.; or
- Impose requirements related to the design, construction or location of signage that advertises the retail price of gasoline in accordance with the requirements of ss. 526.111 and 526.121, F.S., which prevents the signage from being clearly visible and legible to drivers of approaching motor vehicles.

The bill specifies s. 553.79(20), F.S., does not affect design and construction requirements contained in the Florida Building Code. Additionally, the bill specifies all local ordinances and requirements prohibited by s. 553.79(20), F.S., are preempted and superseded and s. 553.79(20), F.S., shall apply retroactively.

Section 9 amends s. 553.791, F.S., to provide that it is the intent of the Legislature that owners and contractors not be required to pay extra costs related to building permitting requirements when hiring a private provider for plans reviews and building inspections. A local jurisdiction must calculate the cost savings to the local enforcement agency, based on a fee owner or contractor hiring a private provider to perform plans reviews and building inspections in lieu of the local building official, and reduce the permit fees accordingly.

Section 10 amends s. 553.80, F.S., related to local government fees. In addition to local enforcement agencies, independent districts and special districts are prohibited from requiring at any time, including at the time of application for a permit, the payment of any additional fees, charges, or expenses associated with:

- Providing proof of licensure pursuant to ch. 489, F.S.;
- Recording or filing a license issued pursuant to ch. 553, F.S.; or
- Providing, recording, or filing evidence of workers' compensation insurance coverage as required by ch. 440, F.S.

Section 11 creates s. 553.9081, F.S., to require the Florida Building Commission to amend the Florida Building Code-Energy Conservation to:

- Eliminate duplicative commissioning reporting requirements for HVAC and electrical systems;
- Authorize commissioning reports to be provided by a licensed design professional, electrical engineer, or mechanical engineer; and
- Prohibit the adoption of ASHRAE Standard 9.4.1.1(g).

Section 12 amends s. 633.208, F.S., on minimum firesafety standards. The bill prohibits a county, municipality, special taxing district, public utility, or private utility from:

- Requiring a separate water connection for a fire sprinkler system for a one-family or two-family dwelling if the dwelling's original water connection can meet the needs of the sprinkler system; and
- Charging a water or sewer rate for a larger water meter for a one-family or two-family dwelling because of the installation of a fire sprinkler system above that which is charged to a one-family and two-family dwelling with a base meter. However, if the installation of fire sprinklers in a one-family or two-family dwelling requires the installation of a larger water meter, only the difference in actual cost between the base water meter and the larger water meter may be charged by the water utility provider.

Section 13 prohibits a local government from requiring an owner of a residence to obtain a permit to paint a residence, regardless of whether the residence is owned by a limited liability company.

Section 14 requires the Department of Education, in conjunction with the Department of Economic Opportunity, to develop a plan to implement the recommendations of the Construction Industry Workforce Task Force Report dated January 20, 2017. The Department of Education must provide the plan to the Construction Industry Workforce Task Force on or before July 1, 2018.

Section 15 requires CareerSource Florida, Inc., to develop and submit a plan to the Construction Industry Workforce Task Force on the potential opportunities for training programs to implement the recommendations of the Construction Industry Workforce Task Force Report, using existing federal funds awarded to the corporation and using the previous State Florida ReBuilds program as an implementation model for such programs. CareerSource Florida, Inc., must provide the plan to the Construction Industry Workforce Task Force on or before July 1, 2018.

Section 16 requires the commission to adopt an amendment to the Florida Building Code-Residential, relating to door components, to provide that, relating to substitution of door components, the components must either:

- Be compliant with ANSI/WMA 100; or
- Be evaluated by an approved product evaluation entity, certification agency, testing laboratory, or engineer and may be interchangeable in exterior door assemblies if the components provide equal or greater structural performance as demonstrated by accepted engineering practices.

Section 17 provides that the bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill may decrease local jurisdictions ability to collect additional fees associated with applying for building permits.

B. Private Sector Impact:

Builders and building code officials may benefit from the increased continuity of the Florida Building Code and increased transparency of the updated code adoption process

Homeowners may pay less for water meters, and there may be an increase in the purchase of fire sprinkler systems for residential dwellings.

C. Government Sector Impact:

The bill requires the Department of Business and Professional Regulation (DBPR) to provide \$150,000 in the 2017-2018 fiscal year to the University of Florida, M.E. Rinker, Sr., School of Construction Management for the continuation of the Construction Industry Workforce Task Force (CIWT).

The DBPR indicates that the amount of additional fees collected by local jurisdictions associated with applying for building permits maybe be reduced.⁵² However, any reduction in fees is indeterminate and likely insignificant.

The Florida Building Commission (commission) will have to review each change to the International Code Council I-Codes (I-Codes) and the International Energy Conservation Code (IECC) individually rather than approving wholesale changes to the Florida Building Code. However, the DBPR stated the changes in the bill relating to the revised Florida Building Code adoption process could be accomplished with current resources.⁵³

The Department of Education, in conjunction with the Department of Economic Opportunity, is directed to develop a plan to implement the recommendations of the CIWT. It is anticipated the plan can be completed within existing resources.

The bill requires CareerSource Florida, Inc., to develop and submit a plan to the CIWT for training programs to implement the recommendations of the Task Force, using existing federal funds awarded to the corporation.

CareerSource Florida receives \$3 million annually in federal training dollars through the Incumbent Worker Training Program. However, CareerSource Florida's federal funds are currently directed to meet shortfalls in career fields other than construction. Redirecting the federal funds for construction training purposes could leave Florida's current need for training programs in other career fields with deficiencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Business and Professional Regulation (DBPR) noted that its staff was unable to find any duplicative commissioning requirements in the current Florida Building Code, 5th edition (2014), or the draft Florida Building Code, 6th Edition 2017.⁵⁴ Additionally, the DBPR noted the reference in section 4 of the bill to American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) s. 9.4.1.1(g) should more properly be ASHRAE Standard 90.1-2013 s. 9.4.1.1(g).⁵⁵ Finally, the DBPR noted that Title III of the Energy Conservation and Protection Act requires that all state building codes meet certain energy conservation requirements.⁵⁶ Last year, the Florida Building Commission (commission) received certification by the Department of Energy that the commercial provisions of the draft 6th Edition, Florida Building Code (2017), Energy Conservation, met those requirements.⁵⁷ The

⁵² Department of Business and Professional Regulation, Bill Analysis for HB1021, (Similar to SB 1312), at p. 6, dated March 28, 2017.

⁵³ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SPB 7000, dated January 23, 2017 at page 5.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

draft Florida Building Code, 6th Edition (2017), Energy Conservation, may lose federal certification if the provisions incorporating ASHRAE 90.1, Section 9.4.1.1(g), are removed.⁵⁸ If the federal certification is lost, the effective date of the Florida Building Code, 6th Edition (2017), could be delayed by six months or more.⁵⁹

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 377.705, 471.033, 489.103, 489.113, 553.721, 553.73, 553.76, 553.79, 553.791, 553.80, and 633.208.

The bill creates section 553.9081 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on April 18, 2017:

- Provides that a professional engineer may certify solar energy systems in lieu of the Florida Solar Energy Center;
- Provides that a professional engineer's license may be disciplined for failing to disclose whether the engineer maintains professional liability insurance and policy limits;
- Modifies the construction contracting exemption for public utilities by providing that employees of public utilities, including municipal gas utilities, are exempt from construction contracting licensure requirements;
- Provides that a pool/spa contractor is not required to subcontract electrical work relating to the installation, replacement, disconnection or reconnection of power wiring of the load side of the dedicated existing electrical disconnecting means, but is required to subcontract certain work related to the circuit breaker;
- Prohibits the Florida Building Commission from adopting the 2016 of the ASHRAE Standard 9.4.1.1(g) relating to energy saving with lights that shut off automatically after 20 minutes; and adopting any provision that requires a door located in the opening between a garage and a residence to be equipped with a self-closing device;
- Prohibits a political subdivision from adopting or enforcing ordinances or building permit requirements that conflict with corporate trademarks, service marks, logos, color patterns or other corporate branding on real property in connection with business activities related to the sale of liquid fuels or other franchises; providing for preemption of certain local laws and regulations; and providing for retroactive applicability;
- Clarifies that it is the Legislature's intent that owners and contractors should not be required to pay twice for building plans and inspections when hiring private providers. Local jurisdictions must calculate the cost savings and reduce fees accordingly;

⁵⁸ *Id.*

⁵⁹ *Id.*

- Prohibits special or independent districts from requiring payment, at any time, of additional fees, charges, or expenses, related to providing proof of licensure and insurance coverage;
- Provides that the Florida Department of Education and the Florida Department of Economic Opportunity must develop a plan to implement the recommendations of the Construction Industry Workforce Taskforce report, and submit the plan to the Taskforce by July 1, 2018;
- Provides that CareerSource Florida, Inc., must develop a plan to implement the recommendations of the Construction Industry Workforce Taskforce using existing federal funds and the Florida ReBuilds implementation model, and submit the plan to the Taskforce by July 1, 2018;
- Provides that residential door components may be substituted in exterior door assemblies if the components are provided by an approved product evaluation entity, certification agency, testing laboratory or engineer, and the door components provide equal or greater structural performance as demonstrated by accepted engineering practices or comply with the ANSI/WMA 100;
- Revises the process by which the Florida Building Code will be adopted such that the commission shall use the I-Codes, the National Electric Code, or other nationally adopted model codes and standards for updates to the Florida Building Code and shall review the most current updates of such codes;
- Requires the commission to adopt any provision from the I-Codes, the National Electrical Code, or any other code necessary to maintain eligibility for federal funding from the National Flood Insurance Program, the Federal Emergency Management Agency, and the United States Department of Housing and Urban Development;
- Provides that a technical advisory committee must receive a two-thirds vote, rather than a three-fourths vote, of the members present at the meeting in order to make a favorable recommendation to the commission;
- Provides that a technical amendment to the Florida Building Code related to water conservation practices or design criteria adopted by a local government is not rendered void when the Florida Building Code is updated if the amendment is necessary to protect or provide for more efficient use of water resources. However, any carried forward technical amendment is subject to review or modification under certain circumstances; and
- Requires the commission to adopt the Florida Building Code by a two-thirds vote of the members present.

B. Amendments:

None.



728698

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Between lines 172 and 173
insert:

Section 4. Paragraphs (f) and (g) of subsection (3) of
section 489.105, Florida Statutes, are amended to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and
is only responsible for, the project contracted for and means,
except as exempted in this part, the person who, for



728698

11 compensation, undertakes to, submits a bid to, or does himself
12 or herself or by others construct, repair, alter, remodel, add
13 to, demolish, subtract from, or improve any building or
14 structure, including related improvements to real estate, for
15 others or for resale to others; and whose job scope is
16 substantially similar to the job scope described in one of the
17 paragraphs of this subsection. For the purposes of regulation
18 under this part, the term "demolish" applies only to demolition
19 of steel tanks more than 50 feet in height; towers more than 50
20 feet in height; other structures more than 50 feet in height;
21 and all buildings or residences. Contractors are subdivided into
22 two divisions, Division I, consisting of those contractors
23 defined in paragraphs (a)-(c), and Division II, consisting of
24 those contractors defined in paragraphs (d)-(q):

25 (f) "Class A air-conditioning contractor" means a
26 contractor whose services are unlimited in the execution of
27 contracts requiring the experience, knowledge, and skill to
28 install, maintain, repair, fabricate, alter, extend, or design,
29 if not prohibited by law, central air-conditioning,
30 refrigeration, heating, and ventilating systems, including duct
31 work in connection with a complete system if such duct work is
32 performed by the contractor as necessary to complete an air-
33 distribution system, boiler and unfired pressure vessel systems,
34 and all appurtenances, apparatus, or equipment used in
35 connection therewith, and any duct cleaning and equipment
36 sanitizing that requires at least a partial disassembling of the
37 system; to install, maintain, repair, fabricate, alter, extend,
38 or design, if not prohibited by law, piping, insulation of
39 pipes, vessels and ducts, pressure and process piping, and



728698

pneumatic control piping; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; to install, replace, or disconnect dedicated heat pump systems used for the heating of water for swimming pools or spas and the disconnection or reconnection of associated piping and electrical power wiring from the load side of the disconnects and related low voltage control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring. A Class A air-conditioning contractor may test and evaluate central air-conditioning, refrigeration, heating, and ventilating systems, including duct work; however, a mandatory licensing requirement is not established for the performance of these specific services.

(g) "Class B air-conditioning contractor" means a contractor whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design,



728698

if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as necessary to complete an air-distribution system being installed under this classification, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping and insulation of pipes, vessels, and ducts; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; to install, replace, or disconnect dedicated heat pump systems used for the heating of water for swimming pools or spas and the disconnection or reconnection of associated piping and electrical power wiring from the load side of the disconnects and related low voltage control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring. A Class B air-conditioning contractor may test and evaluate central air-



728698

conditioning, refrigeration, heating, and ventilating systems,
including duct work; however, a mandatory licensing requirement
is not established for the performance of these specific
services.

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

And the title is amended as follows:

Delete line 14

and insert:

purposes; amending s. 489.105, F.S.; redefining the
terms "class A air-conditioning contractor" and "class
B air-conditioning contractor"; amending s. 489.113,
F.S.; providing that



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Perry) recommended the following:

Senate Substitute for Amendment (728698) (with title amendment)

Delete lines 151 - 657
and insert:

Section 2. Subsection (5) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(5) Public utilities, including municipal gas utilities and special gas districts as defined in chapter 189,



692516

telecommunications companies as defined in s. 364.02(13), and natural gas transmission companies as defined in s. 368.103(4), on construction, maintenance, and development work performed by their employees, ~~which work, including, but not limited to, work on bridges, roads, streets, highways, or railroads, is incidental to their business. The board shall define, by rule, the term "incidental to their business" for purposes of this subsection.~~

Section 3. Section 553.721, Florida Statutes, is amended to read:

553.721 Surcharge.—In order for the Department of Business and Professional Regulation to administer and carry out the purposes of this part and related activities, there is created a surcharge, to be assessed at the rate of 1.5 percent of the permit fees associated with enforcement of the Florida Building Code as defined by the uniform account criteria and specifically the uniform account code for building permits adopted for local government financial reporting pursuant to s. 218.32. The minimum amount collected on any permit issued shall be \$2. The unit of government responsible for collecting a permit fee pursuant to s. 125.56(4) or s. 166.201 shall collect the surcharge and electronically remit the funds collected to the department on a quarterly calendar basis for the preceding quarter and continuing each third month thereafter. The unit of government shall retain 10 percent of the surcharge collected to fund the participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. All funds remitted to the department pursuant to this section



692516

shall be deposited in the Professional Regulation Trust Fund. Funds collected from the surcharge shall be allocated to fund the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program under s. 553.841. Funds allocated to the Florida Building Code Compliance and Mitigation Program shall be \$925,000 each fiscal year. The Florida Building Code Compliance and Mitigation Program shall fund the recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup, dated April 8, 2013, from existing resources, not to exceed \$30,000 in the 2016-2017 fiscal year. The department shall provide \$150,000 for the 2017-2018 fiscal year from surcharge funds available to the University of Florida M. E. Rinker, Sr., School of Construction Management for the continuation of the Construction Industry Workforce Task Force. Funds collected from the surcharge shall also be used to fund Florida Fire Prevention Code informal interpretations managed by the State Fire Marshal and shall be limited to \$15,000 each fiscal year. The State Fire Marshal shall adopt rules to address the implementation and expenditure of the funds allocated to fund the Florida Fire Prevention Code informal interpretations under this section. The funds collected from the surcharge may not be used to fund research on techniques for mitigation of radon in existing buildings. Funds used by the department as well as funds to be transferred to the Department of Health and the State Fire Marshal shall be as prescribed in the annual General Appropriations Act. The department shall adopt rules governing the collection and remittance of surcharges pursuant to chapter 120.

Section 4. For the 2017-2018 fiscal year, the sum of



692516

\$150,000 in nonrecurring funds from the Professional Regulation Trust Fund is appropriated to the Department of Business and Professional Regulation Trust Fund for the transfer to the University of Florida M. E. Rinker, Sr., School of Construction Management for the continuation of the Construction Industry Workforce Task Force.

Section 5. Subsection (3) of section 553.73, Florida Statutes, is amended, paragraph (d) is added to subsection (4) of that section, subsections (7) and (8) and paragraphs (a) and (b) of subsection (9) of that section are amended, and subsection (20) is added to that section, to read:

553.73 Florida Building Code.—

(3) The commission shall use the ~~International Codes published by the~~ International Code Council, the National Electric Code (NFPA 70), or other nationally adopted model codes and standards for updates to ~~needed to develop the base code in Florida to form the foundation for~~ the Florida Building Code. The ~~Florida Building~~ commission may approve technical amendments to the code as provided in, ~~subject to~~ subsections (8) and (9), ~~after the amendments have been~~ subject to all of the following conditions:

(a) The proposed amendment must have ~~has~~ been published on the commission's website for a minimum of 45 days and all the associated documentation must have ~~has~~ been made available to any interested party before ~~any~~ consideration by a technical advisory committee. ~~;~~

(b) In order for a technical advisory committee to make a favorable recommendation to the commission, the proposal must receive a two-thirds ~~three-fourths~~ vote of the members present



692516

at the ~~technical advisory committee~~ meeting. ~~and~~ At least half of the regular members must be present in order to conduct a meeting.

(c) After the technical advisory committee has considered and recommended ~~consideration and a recommendation for~~ approval of any proposed amendment, the proposal must be published on the commission's website for at least 45 days before ~~any~~ consideration by the commission.

(d) A proposal may be modified by the commission based on public testimony and evidence from a public hearing held in accordance with chapter 120.

The commission shall incorporate within ~~sections of~~ the Florida Building Code provisions that ~~which~~ address regional and local concerns and variations. The commission shall make every effort to minimize conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code.

(4)

(d) A technical amendment to the Florida Building Code related to water conservation practices or design criteria adopted by a local government pursuant to this subsection is not rendered void when the code is updated if the technical amendment is necessary to protect or provide for more efficient use of water resources as provided in s. 373.621. However, any such technical amendment carried forward into the next edition of the code pursuant to this paragraph is subject to review or modification as provided in this part.

(7) (a) The commission, ~~by rule adopted pursuant to ss. 120.536(1) and 120.54,~~ shall adopt an updated ~~update~~ the Florida



692516

Building Code every 3 years through review of. ~~When updating the Florida Building Code, the commission shall select the most current updates version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are copyrighted and published by adopted by the International Code Council, and the National Electrical Code, which is copyrighted and published adopted by the National Fire Protection Association. At a minimum, the commission shall adopt any updates to such codes or any other code necessary to maintain eligibility for federal funding from the National Flood Insurance Program, the Federal Emergency Management Agency, and the United States Department of Housing and Urban Development, to form the foundation codes of the updated Florida Building Code, if the version has been adopted by the applicable model code entity. The commission shall also review and adopt updates based substantially on select the most current version of the International Energy Conservation Code (IECC) as a foundation code; however, the IECC shall be modified by the commission shall to maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction adopted and amended pursuant to s. 553.901. The commission shall adopt updated codes by rule.~~

(b) Codes regarding noise contour lines shall be reviewed annually, and the most current federal guidelines shall be adopted.

(c) The commission may adopt as a technical amendment to the Florida Building Code ~~modify~~ any portion of the ~~foundation~~ codes identified in paragraph (a), but only as needed to



692516

156 accommodate the specific needs of this state. Standards or
157 criteria adopted from these ~~referenced by the~~ codes shall be
158 incorporated by reference to the specific provisions adopted. If
159 a referenced standard or criterion requires amplification or
160 modification to be appropriate for use in this state, only the
161 amplification or modification shall be set forth in the Florida
162 Building Code. The commission may approve technical amendments
163 to the updated Florida Building Code after the amendments have
164 been subject to the conditions set forth in paragraphs (3)(a)-
165 (d). Amendments that ~~to the foundation codes which~~ are adopted
166 in accordance with this subsection shall be clearly marked in
167 printed versions of the Florida Building Code so that the fact
168 that the provisions are ~~Florida-specific~~ amendments ~~to the~~
169 ~~foundation codes~~ is readily apparent.

170 (d) The commission shall further consider the commission's
171 own interpretations, declaratory statements, appellate
172 decisions, and approved statewide and local technical amendments
173 and shall incorporate such interpretations, statements,
174 decisions, and amendments into the updated Florida Building Code
175 only to the extent that they are needed to ~~modify the foundation~~
176 ~~codes to~~ accommodate the specific needs of the state. A change
177 made by an institute or standards organization to any standard
178 or criterion that is adopted by reference in the Florida
179 Building Code does not become effective statewide until it has
180 been adopted by the commission. Furthermore, the edition of the
181 Florida Building Code which is in effect on the date of
182 application for any permit authorized by the code governs the
183 permitted work for the life of the permit and any extension
184 granted to the permit.



692516

(e) A rule updating the Florida Building Code in accordance with this subsection shall take effect no sooner than 6 months after publication of the updated code. Any amendment to the Florida Building Code which is adopted upon a finding by the commission that the amendment is necessary to protect the public from immediate threat of harm takes effect immediately.

(f) Provisions of the Florida Building Code foundation codes, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be modified to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, modify the provisions to enhance those construction requirements.

~~(g) Amendments or modifications to the foundation code pursuant to this subsection shall remain effective only until the effective date of a new edition of the Florida Building Code every third year. Amendments or modifications related to state agency regulations which are adopted and integrated into an edition of the Florida Building Code shall be carried forward into the next edition of the code, subject to modification as provided in this part. Amendments or modifications related to the wind resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties which are adopted to an edition of the Florida Building Code do not expire and shall be carried forward into the next edition of the code, subject to review or modification as provided in this part. If amendments that expire pursuant to this paragraph are resubmitted through the Florida Building commission code adoption process, the amendments must~~



692516

~~specifically address whether:~~

~~1. The provisions contained in the proposed amendment are addressed in the applicable international code.~~

~~2. The amendment demonstrates by evidence or data that the geographical jurisdiction of Florida exhibits a need to strengthen the foundation code beyond the needs or regional variations addressed by the foundation code, and why the proposed amendment applies to this state.~~

~~3. The proposed amendment was submitted or attempted to be included in the foundation codes to avoid resubmission to the Florida Building Code amendment process.~~

~~If the proposed amendment has been addressed in the international code in a substantially equivalent manner, the Florida Building commission may not include the proposed amendment in the foundation Code.~~

(8) Notwithstanding ~~the provisions of~~ subsection (3) or subsection (7), the commission may address issues identified in this subsection by amending the code pursuant ~~only~~ to the rule adoption procedures ~~contained~~ in chapter 120. ~~Provisions of The Florida Building Code, including provisions those~~ contained in referenced standards and criteria which relate, ~~relating~~ to wind resistance or the prevention of water intrusion, may not be amended pursuant to this subsection to diminish those standards ~~construction requirements~~; however, the commission may, ~~subject to conditions in this subsection,~~ amend the Florida Building Code ~~the provisions~~ to enhance such standards ~~those construction requirements~~. Following the approval of any amendments to the Florida Building Code by the commission and publication of the



692516

amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

- (a) Conflicts within the updated code;
- (b) Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;
- (c) Unintended results from the integration of previously adopted ~~Florida-specific~~ amendments with the model code;
- (d) Equivalency of standards;
- (e) Changes to or inconsistencies with federal or state law; or
- (f) Adoption of an updated edition of the National Electrical Code if the commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

(9)(a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:

- 1. Is needed in order to accommodate the specific needs of this state.
- 2. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
- 3. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
- 4. Does not discriminate against materials, products,



692516

methods, or systems of construction of demonstrated capabilities.

5. Does not degrade the effectiveness of the Florida Building Code.

The Florida Building Commission may approve technical amendments to the code once each year to incorporate into the Florida Building Code its own interpretations of the code which are embodied in its opinions, final orders, declaratory statements, and interpretations of hearing officer panels under s. 553.775(3)(c), but only to the extent that the incorporation of interpretations is needed to modify the code ~~foundation codes~~ to accommodate the specific needs of this state. Amendments approved under this paragraph shall be adopted by rule after the amendments have been subjected to subsection (3).

(b) A proposed amendment must include a fiscal impact statement that documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, and the impact to industry, relative to the cost of compliance. The amendment must demonstrate by evidence or data that the state's geographical jurisdiction exhibits a need to strengthen the ~~foundation~~ code beyond the needs or regional variations addressed by the ~~foundation~~ code and why the proposed amendment applies to this state.

(20) The Florida Building Commission may not:

(a) Adopt the 2016 version of the American Society of



692516

Heating, Refrigerating and Air-Conditioning Engineers Standard
9.4.1.1(g) .

(b) Adopt any provision that requires a door located in the
opening between a garage and a residence to be equipped with a
self-closing device.

Section 6. Subsection (2) of section 553.76, Florida
Statutes, is amended to read:

553.76 General powers of the commission.—The commission is
authorized to:

(2) Issue memoranda of procedure for its internal
management and control. The commission may adopt rules related
to its consensus-based decisionmaking process, including, but
not limited to, super majority voting requirements ~~for~~
~~commission actions relating to the adoption of the Florida~~
~~Building Code or amendments to the code.~~ However, the commission
must adopt the Florida Building Code, and amendments thereto, by
at least a two-thirds vote of the members present at a meeting.

Section 7. Subsection (20) is added to section 553.79,
Florida Statutes, to read:

553.79 Permits; applications; issuance; inspections.—

(20) A political subdivision of this state may not adopt or
enforce any ordinance or impose any building permit or other
development order requirement that:

(a)1. Contains any building, construction, or aesthetic
requirement or condition that conflicts with or impairs
corporate trademarks, service marks, trade dress, logos, color
patterns, design scheme insignia, image standards, or other
features of corporate branding identity on real property or
improvements thereon used in activities conducted under chapter



692516

526 or in carrying out business activities defined as a
franchise by Federal Trade Commission regulations in 16 C.F.R.
ss. 436.1, et. seq.; or

2. Imposes any requirement on the design, construction, or
location of signage advertising the retail price of gasoline in
accordance with the requirements of ss. 526.111 and 526.121
which prevents the signage from being clearly visible and
legible to drivers of approaching motor vehicles in any lane of
traffic in either direction on a roadway abutting the gas
station premises and which meets height, width, and spacing
standards for Series C, D, or E signs, as applicable, published
in the latest edition of Standard Alphabets for Highway Signs
and Pavement Markings published by the Federal Highway
Administration, Office of Traffic Operations.

(b) This subsection does not affect any requirement for
design and construction in the Florida Building Code.

(c) All such ordinances and requirements are hereby
preempted and superseded by general law. This subsection shall
apply retroactively.

(d) This subsection does not apply to property located in a
designated historic district.

Section 8. Subsection (2) of section 553.791, Florida
Statutes, is amended to read:

553.791 Alternative plans review and inspection.—

(2) (a) Notwithstanding any other law or local government
ordinance or local policy, the fee owner of a building or
structure, or the fee owner's contractor upon written
authorization from the fee owner, may choose to use a private
provider to provide building code inspection services with



692516

regard to such building or structure and may make payment directly to the private provider for the provision of such services. All such services shall be the subject of a written contract between the private provider, or the private provider's firm, and the fee owner or the fee owner's contractor, upon written authorization of the fee owner. The fee owner may elect to use a private provider to provide plans review or required building inspections, or both. However, if the fee owner or the fee owner's contractor uses a private provider to provide plans review, the local building official, in his or her discretion and pursuant to duly adopted policies of the local enforcement agency, may require the fee owner or the fee owner's contractor to use a private provider to also provide required building inspections.

(b) It is the intent of the Legislature that owners and contractors not be required to pay extra costs related to building permitting requirements when hiring a private provider for plans reviews and building inspections. A local jurisdiction must calculate the cost savings to the local enforcement agency, based on a fee owner or contractor hiring a private provider to perform plans reviews and building inspections in lieu of the local building official, and reduce the permit fees accordingly.

Section 9. Paragraph (d) of subsection (7) of section 553.80, Florida Statutes, is amended to read:

553.80 Enforcement.—

(7) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall



692516

be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances shall be carried forward to future years for allowable activities or shall be refunded at the discretion of the local government. The basis for a fee structure for allowable activities shall relate to the level of service provided by the local government and shall include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged shall be consistently applied.

(d) The local enforcement agency, independent district, or special district may not require at any time, including at the time of application for a permit, the payment of any additional fees, charges, or expenses associated with:

1. Providing proof of licensure pursuant to chapter 489;
2. Recording or filing a license issued pursuant to this chapter; or
3. Providing, recording, or filing evidence of workers' compensation insurance coverage as required by chapter 440.

Section 10. Section 553.9081, Florida Statutes, is created to read:

553.9081 Florida Building Code; required amendments.—The Florida Building Commission shall amend the Florida Building Code—Energy Conservation to:

- (1) (a) Eliminate duplicative commissioning reporting



692516

requirements for HVAC and electrical systems; and

(b) Authorize commissioning reports to be provided by a licensed design professional, electrical engineer, or mechanical engineer.

(2) Prohibit the adoption of American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 9.4.1.1(g) .

Section 11. Subsection (8) of section 633.208, Florida Statutes, is amended to read:

633.208 Minimum firesafety standards.—

(8)(a) The provisions of the Life Safety Code, as contained in the Florida Fire Prevention Code, do not apply to one-family and two-family dwellings. However, fire sprinkler protection may be permitted by local government in lieu of other fire protection-related development requirements for such structures. While local governments may adopt fire sprinkler requirements for one-family ~~one-~~ and two-family dwellings under this subsection, it is the intent of the Legislature that the economic consequences of the fire sprinkler mandate on home owners be studied before the enactment of such a requirement. After the effective date of this act, any local government that desires to adopt a fire sprinkler requirement on one-family ~~one-~~ or two-family dwellings must prepare an economic cost and benefit report that analyzes the application of fire sprinklers to one-family ~~one-~~ or two-family dwellings or any proposed residential subdivision. The report must consider the tradeoffs and specific cost savings and benefits of fire sprinklers for future owners of property. The report must include an assessment of the cost savings from any reduced or eliminated impact fees



692516

if applicable, the reduction in special fire district tax, insurance fees, and other taxes or fees imposed, and the waiver of certain infrastructure requirements including the reduction of roadway widths, the reduction of water line sizes, increased fire hydrant spacing, increased dead-end roadway length, and a reduction in cul-de-sac sizes relative to the costs from fire sprinkling. A failure to prepare an economic report shall result in the invalidation of the fire sprinkler requirement to any one-family ~~one-~~ or two-family dwelling or any proposed subdivision. In addition, a local jurisdiction or utility may not charge any additional fee, above what is charged to a non-fire sprinklered dwelling, on the basis that a one-family ~~one-~~ or two-family dwelling unit is protected by a fire sprinkler system.

(b)1. A county, municipality, special taxing district, public utility, or private utility may not require a separate water connection for a one-family or two-family dwelling fire sprinkler system if the hydraulic design has proven the existing connection is capable of supplying the needed hydraulic demand.

2. A county, municipality, special district, public utility, or private utility may not charge a water or sewer rate to a one-family or two-family dwelling that requires a larger water meter solely due to the installation of fire sprinklers above that which is charged to a one-family and two-family dwelling with a base meter. If the installation of fire sprinklers in a one-family or two-family dwelling requires the installation of a larger water meter, only the difference in actual cost between the base water meter and the larger water meter may be charged by the water utility provider.



692516

Section 12. A local government may not require an owner of a residence to obtain a permit to paint such residence, regardless of whether the residence is owned by a limited liability company.

Section 13. The Department of Education, in conjunction with the Department of Economic Opportunity, shall develop a plan to implement the recommendations of the Construction Industry Workforce Task Force Report dated January 20, 2017. The Department of Education shall provide the plan to the Construction Industry Workforce Task Force on or before July 31, 2017.

Section 14. CareerSource Florida, Inc., shall develop and submit a plan to the Construction Industry Workforce Task Force on the potential opportunities for training programs to implement the recommendations of the Construction Industry Workforce Task Force Report dated January 20, 2017, using existing federal funds awarded to the corporation and using the previous statewide Florida ReBuilds program as an implementation model for such programs. CareerSource Florida, Inc., shall provide the plan to the Construction Industry Workforce Task Force on or before July 31, 2017.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 6 - 59
and insert:

engineers; amending s. 489.103, F.S.; revising an exemption from construction contracting regulation for certain public utilities; deleting responsibility of



692516

the Construction Industry Licensing Board to define the term "incidental to their business" for certain purposes; amending s. 553.721, F.S.; requiring the Department of Business and Professional Regulation to provide certain funds allocated to the University of Florida M. E. Rinker, Sr., School of Construction Management for specified purposes; providing an appropriation; amending s. 553.73, F.S.; requiring the Florida Building Commission to use certain entities and codes for updates to the Florida Building Code; revising voting requirements for a technical advisory committee to make a favorable recommendation to the commission; providing that certain technical amendments to the Florida Building Code which are adopted by a local government are not rendered void when the code is updated; specifying that such amendments are subject to review or modification if carried forward into the next edition of the code; requiring the commission to update the Florida Building Code through a review of the most current updates of specified codes; requiring the commission to adopt specified provisions from certain codes; deleting provisions limiting how long an amendment or modification is effective; deleting a provision requiring certain amendments or modifications to be carried forward into the next edition of the code, subject to certain conditions; deleting certain requirements for the resubmission of expired amendments; deleting a provision prohibiting a



692516

proposed amendment from being included in the code if
it has been addressed in the international code;
conforming provisions to changes made by the act;
prohibiting the commission from adopting certain
provisions into the Florida Building Code; amending s.
553.76, F.S.; requiring the commission to adopt the
Florida Building Code, and amendments thereto, by a
minimum percentage of votes; amending s. 553.79, F.S.;
prohibiting a political subdivision from adopting or
enforcing certain building permits or other
development order requirements; providing
construction; providing for preemption of certain
local laws and regulations; providing for retroactive
applicability; providing an exemption; amending s.
553.791, F.S.; providing



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Powell) recommended the following:

Senate Amendment to Amendment (692516) (with title amendment)

Delete lines 318 - 350.

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

And the title is amended as follows:

Delete lines 540 - 546

and insert:

minimum percentage of votes; amending s.



137454

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/25/2017	.	
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The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 513 - 542

and insert:

Section 9. Section 468.603, Florida Statutes, is reordered and amended to read:

468.603 Definitions.—As used in this part:

(2)~~(1)~~ "Building code administrator" or "building official" means any of those employees of municipal or county governments, or any person contracted, with building construction regulation



137454

responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance. This term is synonymous with "building official" as used in the ~~administrative chapter of the Standard Building Code and the South Florida Building Code~~. One person employed or contracted by each municipal or county government as a building code administrator or building official and who is so certified under this part may be authorized to perform any plan review or inspection for which certification is required by this part, including performing any plan review or inspection as a currently designated standard-certified building official under an interagency service agreement with a jurisdiction having a population of 50,000 or fewer.

(4)-(2) "Building code inspector" means any of those employees of local governments or state agencies, or any person contracted, with building construction regulation responsibilities who themselves conduct inspections of building construction, erection, repair, addition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance.

(1)-(3) "Board" means the Florida Building Code



137454

Administrators and Inspectors Board.

(7)~~(4)~~ "Department" means the Department of Business and Professional Regulation.

(6)~~(5)~~ "Certificate" means a certificate of qualification issued by the department as provided in this part.

(5)~~(6)~~ "Categories of building code inspectors" include the following:

(a) "Building inspector" means a person who is qualified to inspect and determine that buildings and structures are constructed in accordance with the provisions of the governing building codes and state accessibility laws.

(b) "Coastal construction inspector" means a person who is qualified to inspect and determine that buildings and structures are constructed to resist near-hurricane and hurricane velocity winds in accordance with the provisions of the governing building code.

(c) "Commercial electrical inspector" means a person who is qualified to inspect and determine the electrical safety of commercial buildings and structures by inspecting for compliance with the provisions of the National Electrical Code.

(h)~~(d)~~ "Residential electrical inspector" means a person who is qualified to inspect and determine the electrical safety of one and two family dwellings and accessory structures by inspecting for compliance with the applicable provisions of the governing electrical code.

(e) "Mechanical inspector" means a person who is qualified to inspect and determine that the mechanical installations and systems for buildings and structures are in compliance with the provisions of the governing mechanical code.



137454

69 (g)~~(f)~~ "Plumbing inspector" means a person who is qualified
70 to inspect and determine that the plumbing installations and
71 systems for buildings and structures are in compliance with the
72 provisions of the governing plumbing code.

73 (f)~~(g)~~ "One and two family dwelling inspector" means a
74 person who is qualified to inspect and determine that one and
75 two family dwellings and accessory structures are constructed in
76 accordance with the provisions of the governing building,
77 plumbing, mechanical, accessibility, and electrical codes.

78 (d)~~(h)~~ "Electrical inspector" means a person who is
79 qualified to inspect and determine the electrical safety of
80 commercial and residential buildings and accessory structures by
81 inspecting for compliance with the provisions of the National
82 Electrical Code.

83 (8)~~(7)~~ "Plans examiner" means a person who is qualified to
84 determine that plans submitted for purposes of obtaining
85 building and other permits comply with the applicable building,
86 plumbing, mechanical, electrical, gas, fire prevention, energy,
87 accessibility, and other applicable construction codes. The term
88 includes a residential plans examiner who is qualified to
89 determine that plans submitted for purposes of obtaining
90 building and other permits comply with the applicable
91 residential building, plumbing, mechanical, electrical, gas,
92 energy, accessibility, and other applicable construction codes.

93 Categories of plans examiners include:

- 94 (a) Building plans examiner.
- 95 (b) Plumbing plans examiner.
- 96 (c) Mechanical plans examiner.
- 97 (d) Electrical plans examiner.



137454

98 (3)~~(8)~~ "Building code enforcement official" or "enforcement
99 official" means a licensed building code administrator, building
100 code inspector, or plans examiner.

101 Section 10. Paragraph (c) of subsection (2), paragraphs (a)
102 and (d) of subsection (7), and subsection (10) of section
103 468.609, Florida Statutes, are amended to read:

104 468.609 Administration of this part; standards for
105 certification; additional categories of certification.—

106 (2) A person may take the examination for certification as
107 a building code inspector or plans examiner pursuant to this
108 part if the person:

109 (c) Meets eligibility requirements according to one of the
110 following criteria:

111 1. Demonstrates 5 years' combined experience in the field
112 of construction or a related field, building code inspection, or
113 plans review corresponding to the certification category sought;

114 2. Demonstrates a combination of postsecondary education in
115 the field of construction or a related field and experience
116 which totals 4 years, with at least 1 year of such total being
117 experience in construction, building code inspection, or plans
118 review;

119 3. Demonstrates a combination of technical education in the
120 field of construction or a related field and experience which
121 totals 4 years, with at least 1 year of such total being
122 experience in construction, building code inspection, or plans
123 review;

124 4. Currently holds a standard certificate issued by the
125 board or a firesafety inspector license issued pursuant to
126 chapter 633, has a minimum of 3 years' verifiable full-time



137454

experience in inspection or plan review, and has satisfactorily completed a building code inspector or plans examiner training program that provides at least 100 hours but not more than 200 hours of cross-training in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs. The board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program;

5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector certified under s. 633.216, or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program that provides at least 200 hours but not more than 300 hours of cross-training that is approved by the board in the chosen category of building code inspection or plan review in the certification category sought with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program. However, the board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom



137454

component of the training program; ~~or~~

6. Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to chapter 633 and:

a. Has at least 5 years' verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of 5 years' verifiable full-time experience as a firesafety inspector licensed pursuant to chapter 633.

b. Has satisfactorily completed a building code inspector or plans examiner classroom training course or program that provides at least 200 but not more than 300 hours in the certification category sought, except for one-family and two-family dwelling training programs, which must provide at least 500 but not more than 800 hours of training as prescribed by the board. The board shall establish by rule criteria for the development and implementation of classroom training courses and programs in each certification category; or

7.a. Has completed a 4-year internship certification program as a building code inspector or plans examiner while employed full-time by a municipality, county, or other local government jurisdiction, under the direct supervision of a certified building official. Proof of graduation with a related vocational degree or college degree or of verifiable work experience may be exchanged for the internship experience requirement year for year, but may reduce the requirement to no less than 1 year;

b. Has passed an examination administered by the International Code Council in the certification category sought.



137454

Such examination must be passed before beginning the internship certification program;

c. Has passed the principles and practice examination before completing the internship certification program;

d. Has passed a board-approved 40-hour code training course in the certification category sought before completing the internship certification program; and

e. Has obtained a favorable recommendation from the supervising building official after completion of the internship certification program.

(7) (a) The board shall provide for the issuance of provisional certificates valid for 1 year, as specified by board rule, to any ~~newly employed or promoted~~ building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3). The provisional license may be renewed by the board for just cause; however, a provisional license is not valid for longer than 3 years.

(d) A ~~newly employed or hired~~ person may perform the duties of a plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted if such person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found such person qualified for a provisional certificate. Direct supervision and the determination of qualifications may also be provided by a building code administrator who holds a limited or provisional certificate in a county having a population of fewer than 75,000 and in a municipality located



137454

within such county.

(10) (a) The board may by rule create categories of certification in addition to those defined in s. 468.603(5) and (8) ~~468.603(6) and (7)~~. Such certification categories shall not be mandatory and shall not act to diminish the scope of any certificate created by statute.

(b) The board shall by rule establish:

1. Reciprocity of certification with any other state that requires an examination administered by the International Code Council.

2. That an applicant for certification as a building code inspector or plans examiner may apply for a provisional certificate valid for the duration of the internship period.

3. That partial completion of an internship program may be transferred between jurisdictions on a form prescribed by the board.

4. That an applicant may apply for a standard certificate on a form prescribed by the board upon successful completion of an internship certification program.

5. That an applicant may apply for a standard certificate at least 30 days and no more than 60 days before completing the internship certification program.

6. That a building code inspector or plans examiner who has a standard certificate may seek an additional certification in another category by completing an additional nonconcurrent 1-year internship program in the certification category sought and passing an examination administered by the International Code Council and a board-approved 40-hour code training course.

Section 11. Subsection (3) of section 468.617, Florida



137454

Statutes, is amended to read:

468.617 Joint building code inspection department; other arrangements.—

(3) Nothing in this part shall prohibit any county or municipal government, school board, community college board, state university, or state agency from entering into any contract with any person or entity for the provision of building code administrator, building official, or building code inspection services regulated under this part, and notwithstanding any other statutory provision, such county or municipal governments may enter into contracts.

Section 12. Paragraphs (d) and (i) of subsection (1) and subsection (2) of section 553.791, Florida Statutes, are amended to read:

553.791 Alternative plans review and inspection.—

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

(d) "Building code inspection services" means those services described in s. 468.603(5) and (8) ~~468.603(6) and (7)~~ involving the review of building plans to determine compliance with applicable codes and those inspections required by law of each phase of construction for which permitting by a local enforcement agency is required to determine compliance with applicable codes.

(i) "Private provider" means a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private



137454

provider" also includes a person who holds a standard certificate under part XII of chapter 468.

(2) (a) Notwithstanding any other law or local government ordinance or local policy, the fee owner of a building or structure, or the fee owner's contractor upon written authorization from the fee owner, may choose to use a private provider to provide building code inspection services with regard to such building or structure and may make payment directly to the private provider for the provision of such services. All such services shall be the subject of a written contract between the private provider, or the private provider's firm, and the fee owner or the fee owner's contractor, upon written authorization of the fee owner. The fee owner may elect to use a private provider to provide plans review or required building inspections, or both. However, if the fee owner or the fee owner's contractor uses a private provider to provide plans review, the local building official, in his or her discretion and pursuant to duly adopted policies of the local enforcement agency, may require the fee owner or the fee owner's contractor to use a private provider to also provide required building inspections.

(b) It is the intent of the Legislature that owners and contractors not be required to pay extra costs related to building permitting requirements when hiring a private provider for plans reviews and building inspections. A local jurisdiction must calculate the cost savings to the local enforcement agency, based on a fee owner or contractor hiring a private provider to perform plans reviews and building inspections in lieu of the local building official, and reduce the permit fees accordingly.



137454

Section 13. Subsection (10) of section 468.609, Florida Statutes, is amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(10) The board may by rule create categories of certification in addition to those defined in s. 468.603(5) and (8) ~~468.603(6) and (7)~~. Such certification categories shall not be mandatory and shall not act to diminish the scope of any certificate created by statute.

Section 14. Section 471.045, Florida Statutes, is amended to read:

471.045 Professional engineers performing building code inspector duties.—Notwithstanding any other provision of law, a person who is currently licensed under this chapter to practice as a professional engineer may provide building code inspection services described in s. 468.603(5) and (8) ~~468.603(6) and (7)~~ to a local government or state agency upon its request, without being certified by the Florida Building Code Administrators and Inspectors Board under part XII of chapter 468. When performing these building code inspection services, the professional engineer is subject to the disciplinary guidelines of this chapter and s. 468.621(1)(c)–(h). Any complaint processing, investigation, and discipline that arise out of a professional engineer's performing building code inspection services shall be conducted by the Board of Professional Engineers rather than the Florida Building Code Administrators and Inspectors Board. A professional engineer may not perform plans review as an employee of a local government upon any job that the professional engineer or the professional engineer's company



137454

designed.

Section 15. Section 481.222, Florida Statutes, is amended to read:

481.222 Architects performing building code inspection services.—Notwithstanding any other provision of law, a person who is currently licensed to practice as an architect under this part may provide building code inspection services described in s. 468.603(5) and (8) ~~468.603(6) and (7)~~ to a local government or state agency upon its request, without being certified by the Florida Building Code Administrators and Inspectors Board under part XII of chapter 468. With respect to the performance of such building code inspection services, the architect is subject to the disciplinary guidelines of this part and s. 468.621(1)(c)-(h). Any complaint processing, investigation, and discipline that arise out of an architect's performance of building code inspection services shall be conducted by the Board of Architecture and Interior Design rather than the Florida Building Code Administrators and Inspectors Board. An architect may not perform plans review as an employee of a local government upon any job that the architect or the architect's company designed.

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

And the title is amended as follows:

Delete lines 59 - 61

and insert:

applicability; amending s. 468.603, F.S.; revising definitions; amending s. 468.609, F.S.; revising eligibility requirements for the examination for



137454

certification as a building code inspector or plans
examiner to include an internship certification
program and other requirements; removing an
eligibility condition from provisions related to
provisional certificates; requiring the Florida
Building Code Administrators and Inspectors Board to
establish rules; amending s. 468.617, F.S.;
authorizing specified entities to contract for the
provision of building code administrator and building
official services; amending s. 553.791, F.S.;
conforming cross-references; revising the definition
of the term "private provider"; providing legislative
intent; requiring local jurisdictions to reduce
certain permit fees; amending ss. 468.609, 471.045,
and 481.222; conforming cross-references; amending s.
553.80, F.S.;

By the Committee on Community Affairs; and Senator Perry

578-03983-17

20171312c1

1 A bill to be entitled
 2 An act relating to construction; amending s. 377.705,
 3 F.S.; revising legislative findings and intent;
 4 authorizing solar energy systems manufactured or sold
 5 in the state to be certified by professional
 6 engineers; amending s. 471.033, F.S.; prohibiting
 7 professional engineers from contracting with customers
 8 without disclosing whether they maintain certain
 9 insurance; amending s. 489.103, F.S.; revising an
 10 exemption from construction contracting regulation for
 11 certain public utilities; deleting responsibility of
 12 the Construction Industry Licensing Board to define
 13 the term "incidental to their business" for certain
 14 purposes; amending s. 489.113, F.S.; providing that
 15 specified pool/spa contractors are not required to
 16 subcontract certain work relating to power wiring;
 17 requiring such contractors to subcontract all work
 18 requiring the installation, removal, replacement, or
 19 upgrading of a circuit breaker; providing
 20 applicability; amending s. 553.721, F.S.; requiring
 21 the Department of Business and Professional Regulation
 22 to provide certain funds allocated to the University
 23 of Florida M. E. Rinker, Sr., School of Construction
 24 Management for specified purposes; amending s. 553.73,
 25 F.S.; requiring the Florida Building Commission to use
 26 certain entities and codes for updates to the Florida
 27 Building Code; revising voting requirements for a
 28 technical advisory committee to make a favorable
 29 recommendation to the commission; providing that

Page 1 of 24

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

578-03983-17

20171312c1

30 certain technical amendments to the Florida Building
 31 Code which are adopted by a local government are not
 32 rendered void when the code is updated; specifying
 33 that such amendments are subject to review or
 34 modification if carried forward into the next edition
 35 of the code; requiring the commission to update the
 36 Florida Building Code through a review of the most
 37 current updates of specified codes; requiring the
 38 commission to adopt specified provisions from certain
 39 codes; deleting provisions limiting how long an
 40 amendment or modification is effective; deleting a
 41 provision requiring certain amendments or
 42 modifications to be carried forward into the next
 43 edition of the code, subject to certain conditions;
 44 deleting certain requirements for the resubmission of
 45 expired amendments; deleting a provision prohibiting a
 46 proposed amendment from being included in the code if
 47 it has been addressed in the international code;
 48 conforming provisions to changes made by the act;
 49 prohibiting the commission from adopting certain
 50 provisions into the Florida Building Code; amending s.
 51 553.76, F.S.; requiring the commission to adopt the
 52 Florida Building Code, and amendments thereto, by a
 53 minimum percentage of votes; amending s. 553.79, F.S.;
 54 prohibiting a political subdivision from adopting or
 55 enforcing certain building permits or other
 56 development order requirements; providing
 57 construction; providing for preemption of certain
 58 local laws and regulations; providing for retroactive

Page 2 of 24

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578-03983-17

20171312c1

applicability; amending s. 553.791, F.S.; providing legislative intent; requiring local jurisdictions to reduce certain permit fees; amending s. 553.80, F.S.; prohibiting local enforcement agencies, independent districts, and special districts from charging certain fees; creating s. 553.9081, F.S.; requiring the Florida Building Commission to amend certain provisions of the Florida Building Code; amending s. 633.208, F.S.; prohibiting a county, municipality, special taxing district, public utility, or private utility from requiring a separate water connection or charging a specified water or sewage rate under certain conditions; prohibiting a local government from requiring a permit for painting a residence; requiring the Department of Education to develop a plan for specified purposes; requiring the department to provide the plan to the Construction Industry Workforce Task Force by a specified date; requiring CareerSource Florida, Inc., to develop a plan for specified purposes; requiring CareerSource Florida, Inc., to provide the plan to the Construction Industry Workforce Task Force by a specified date; requiring the Florida Building Commission to amend specified provisions of the Florida Building Code related to door components; providing an effective date.

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

Section 1. Section 377.705, Florida Statutes, is amended to

578-03983-17

20171312c1

read:

377.705 Solar Energy Center; development of solar energy standards.—

(1) SHORT TITLE.—This act shall be known and may be cited as the Solar Energy Standards Act of 1976.

(2) ~~LEGISLATIVE FINDINGS AND INTENT.—~~

~~(a) Because of increases in the cost of conventional fuel, certain applications of solar energy are becoming competitive, particularly when life-cycle costs are considered. It is the intent of the Legislature in formulating a sound and balanced energy policy for the state to encourage the development of an alternative energy capability in the form of incident solar energy.~~

~~(b) Toward this purpose, The Legislature intends to provide incentives for the production and sale of, and to set standards for, solar energy systems. Such standards shall ensure that solar energy systems manufactured or sold within the state are effective and represent a high level of quality of materials, workmanship, and design.~~

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

(a) "Center" ~~means is defined as~~ the Florida Solar Energy Center of the Board of Governors.

(b) "Solar energy systems" ~~means is defined as~~ equipment which provides for the collection and use of incident solar energy for water heating, space heating or cooling, or other applications which normally require or would require a conventional source of energy such as petroleum products, natural gas, or electricity and which performs primarily with solar energy. In such other systems in which solar energy is

578-03983-17

20171312c1

used in a supplemental way, only those components which collect and transfer solar energy shall be included in this definition.

(4) FLORIDA SOLAR ENERGY CENTER TO SET STANDARDS, REQUIRE DISCLOSURE, SET TESTING FEES.—

(a) The center shall develop and ~~adopt~~ promulgate standards for solar energy systems manufactured or sold in this state based on the best currently available information and shall consult with scientists, engineers, or persons in research centers who are engaged in the construction of, experimentation with, and research of solar energy systems to properly identify the most reliable designs and types of solar energy systems.

(b) The center shall establish criteria for testing performance of solar energy systems and shall maintain the necessary capability for testing or evaluating performance of solar energy systems. The center may accept results of tests on solar energy systems made by other organizations, companies, or persons if when such tests are conducted according to the criteria established by the center and if when the testing entity does not have a ~~has no~~ vested interest in the manufacture, distribution, or sale of solar energy systems.

(c) The center shall be entitled to receive a testing fee sufficient to cover the costs of such testing. All testing fees shall be transmitted by the center to the Chief Financial Officer to be deposited in the Solar Energy Center Testing Trust Fund, which is ~~hereby~~ created in the State Treasury, and disbursed for the payment of expenses incurred in testing solar energy systems.

(d) All solar energy systems manufactured or sold in the state must meet the standards established by the center and

578-03983-17

20171312c1

shall display accepted results of approved performance tests in a manner prescribed by the center, unless otherwise certified by an engineer licensed pursuant to chapter 471 using the standards contained in the most recent version of the Florida Building Code.

Section 2. Paragraph (m) is added to subsection (1) of section 471.033, Florida Statutes, to read:

471.033 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(m) Failing to disclose to a customer before contracting for engineering service whether the licensee maintains professional liability insurance and the policy limits if the licensee does maintain such insurance.

Section 3. Subsection (5) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(5) Public utilities, including municipal gas utilities and special gas districts as defined in chapter 189, telecommunications companies as defined in s. 364.02(13), and natural gas transmission companies as defined in s. 368.103(4), on construction, maintenance, and development work performed by their employees, ~~which work, including, but not limited to, work on bridges, roads, streets, highways, or railroads, is incidental to their business. The board shall define, by rule, the term "incidental to their business" for purposes of this subsection.~~

Section 4. Paragraph (h) is added to subsection (3) of section 489.113, Florida Statutes, to read:

578-03983-17

20171312c1

175 489.113 Qualifications for practice; restrictions.-
 176 (3) A contractor shall subcontract all electrical,
 177 mechanical, plumbing, roofing, sheet metal, swimming pool, and
 178 air-conditioning work, unless such contractor holds a state
 179 certificate or registration in the respective trade category,
 180 however:
 181 (h) A pool/spa contractor, as defined in s. 489.105(3)(j),
 182 (k), or (l), is not required to subcontract electrical work for
 183 the installation, replacement, disconnection, or reconnection of
 184 power wiring on the load side of the dedicated existing
 185 electrical disconnecting means, but is required to subcontract
 186 all electrical work that requires installation, removal,
 187 replacement, or upgrading of a circuit breaker. This paragraph
 188 does not apply to other contractor classifications or
 189 professions.

190 Section 5. Section 553.721, Florida Statutes, is amended to
 191 read:

192 553.721 Surcharge.—In order for the Department of Business
 193 and Professional Regulation to administer and carry out the
 194 purposes of this part and related activities, there is created a
 195 surcharge, to be assessed at the rate of 1.5 percent of the
 196 permit fees associated with enforcement of the Florida Building
 197 Code as defined by the uniform account criteria and specifically
 198 the uniform account code for building permits adopted for local
 199 government financial reporting pursuant to s. 218.32. The
 200 minimum amount collected on any permit issued shall be \$2. The
 201 unit of government responsible for collecting a permit fee
 202 pursuant to s. 125.56(4) or s. 166.201 shall collect the
 203 surcharge and electronically remit the funds collected to the

578-03983-17

20171312c1

204 department on a quarterly calendar basis for the preceding
 205 quarter and continuing each third month thereafter. The unit of
 206 government shall retain 10 percent of the surcharge collected to
 207 fund the participation of building departments in the national
 208 and state building code adoption processes and to provide
 209 education related to enforcement of the Florida Building Code.
 210 All funds remitted to the department pursuant to this section
 211 shall be deposited in the Professional Regulation Trust Fund.
 212 Funds collected from the surcharge shall be allocated to fund
 213 the Florida Building Commission and the Florida Building Code
 214 Compliance and Mitigation Program under s. 553.841. Funds
 215 allocated to the Florida Building Code Compliance and Mitigation
 216 Program shall be \$925,000 each fiscal year. The Florida Building
 217 Code Compliance and Mitigation Program shall fund the
 218 recommendations made by the Building Code System Uniform
 219 Implementation Evaluation Workgroup, dated April 8, 2013, from
 220 existing resources, not to exceed \$30,000 in the 2016-2017
 221 fiscal year. The department shall provide \$150,000 for the 2017-
 222 2018 fiscal year from surcharge funds available to the
 223 University of Florida M. E. Rinker, Sr., School of Construction
 224 Management for the continuation of the Construction Industry
 225 Workforce Task Force. Funds collected from the surcharge shall
 226 also be used to fund Florida Fire Prevention Code informal
 227 interpretations managed by the State Fire Marshal and shall be
 228 limited to \$15,000 each fiscal year. The State Fire Marshal
 229 shall adopt rules to address the implementation and expenditure
 230 of the funds allocated to fund the Florida Fire Prevention Code
 231 informal interpretations under this section. The funds collected
 232 from the surcharge may not be used to fund research on

578-03983-17

20171312c1

techniques for mitigation of radon in existing buildings. Funds used by the department as well as funds to be transferred to the Department of Health and the State Fire Marshal shall be as prescribed in the annual General Appropriations Act. The department shall adopt rules governing the collection and remittance of surcharges pursuant to chapter 120.

Section 6. Subsection (3) of section 553.73, Florida Statutes, is amended, paragraph (d) is added to subsection (4) of that section, subsections (7) and (8) and paragraphs (a) and (b) of subsection (9) of that section are amended, and subsection (20) is added to that section, to read:

553.73 Florida Building Code.—

(3) The commission shall use the ~~International Codes published by the International Code Council, the National Electric Code (NFPA 70), or other nationally adopted model codes and standards for updates to needed to develop the base code in Florida to form the foundation for~~ the Florida Building Code. The ~~Florida Building~~ commission may approve technical amendments to the code as provided in, ~~subject to~~ subsections (8) and (9), ~~after the amendments have been~~ subject to all of the following conditions:

(a) The proposed amendment must have ~~has~~ been published on the commission's website for a minimum of 45 days and all the associated documentation must have ~~has~~ been made available to any interested party before ~~any~~ consideration by a technical advisory committee.†

(b) In order for a technical advisory committee to make a favorable recommendation to the commission, the proposal must receive a two-thirds ~~three-fourths~~ vote of the members present

578-03983-17

20171312c1

at the ~~technical advisory committee meeting.~~ and At least half of the regular members must be present in order to conduct a meeting.†

(c) After the technical advisory committee has considered and recommended ~~consideration and a recommendation for~~ approval of any proposed amendment, the proposal must be published on the commission's website for at least 45 days before ~~any~~ consideration by the commission.†~~and~~

(d) A proposal may be modified by the commission based on public testimony and evidence from a public hearing held in accordance with chapter 120.

The commission shall incorporate within ~~sections of~~ the Florida Building Code provisions that ~~which~~ address regional and local concerns and variations. The commission shall make every effort to minimize conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code.

(4)

(d) A technical amendment to the Florida Building Code related to water conservation practices or design criteria adopted by a local government pursuant to this subsection is not rendered void when the code is updated if the technical amendment is necessary to protect or provide for more efficient use of water resources as provided in s. 373.621. However, any such technical amendment carried forward into the next edition of the code pursuant to this paragraph is subject to review or modification as provided in this part.

(7) (a) The commission, ~~by rule adopted pursuant to ss. 120.536(1) and 120.54,~~ shall adopt an updated ~~update the~~ Florida

578-03983-17

20171312c1

Building Code every 3 years through review of. ~~When updating the~~
~~Florida Building Code, the commission shall select the most~~
~~current updates version of the International Building Code, the~~
~~International Fuel Gas Code, the International Mechanical Code,~~
~~the International Plumbing Code, and the International~~
~~Residential Code, all of which are copyrighted and published by~~
~~adopted by the International Code Council, and the National~~
~~Electrical Code, which is copyrighted and published adopted by~~
~~the National Fire Protection Association. At a minimum, the~~
~~commission shall adopt any updates to such codes or any other~~
~~code necessary to maintain eligibility for federal funding from~~
~~the National Flood Insurance Program, the Federal Emergency~~
~~Management Agency, and the United States Department of Housing~~
~~and Urban Development, to form the foundation codes of the~~
~~updated Florida Building Code, if the version has been adopted~~
~~by the applicable model code entity. The commission shall also~~
~~review and adopt updates based substantially on select the most~~
~~current version of the International Energy Conservation Code~~
~~(IECC) as a foundation code; however, the IECC shall be modified~~
~~by the commission shall to maintain the efficiencies of the~~
~~Florida Energy Efficiency Code for Building Construction adopted~~
~~and amended pursuant to s. 553.901. The commission shall adopt~~
~~updated codes by rule.~~

(b) Codes regarding noise contour lines shall be reviewed
 annually, and the most current federal guidelines shall be
 adopted.

(c) The commission may adopt as a technical amendment to
the Florida Building Code ~~modify~~ any portion of the ~~foundation~~
~~codes identified in paragraph (a), but only as needed to~~

578-03983-17

20171312c1

accommodate the specific needs of this state. Standards or
 criteria ~~adopted from these~~ referenced by the codes shall be
 incorporated by reference to the specific provisions adopted. If
 a referenced standard or criterion requires amplification or
 modification to be appropriate for use in this state, only the
 amplification or modification shall be set forth in the Florida
 Building Code. The commission may approve technical amendments
 to the updated Florida Building Code after the amendments have
 been subject to the conditions set forth in paragraphs (3)(a)-
 (d). ~~Amendments that to the foundation codes which~~ are adopted
 in accordance with this subsection shall be clearly marked in
 printed versions of the Florida Building Code so that the fact
 that the provisions are ~~Florida-specific~~ amendments ~~to the~~
~~foundation codes~~ is readily apparent.

(d) The commission shall further consider the commission's
 own interpretations, declaratory statements, appellate
 decisions, and approved statewide and local technical amendments
 and shall incorporate such interpretations, statements,
 decisions, and amendments into the updated Florida Building Code
 only to the extent that they are needed to ~~modify the foundation~~
~~codes to~~ accommodate the specific needs of the state. A change
 made by an institute or standards organization to any standard
 or criterion that is adopted by reference in the Florida
 Building Code does not become effective statewide until it has
 been adopted by the commission. Furthermore, the edition of the
 Florida Building Code which is in effect on the date of
 application for any permit authorized by the code governs the
 permitted work for the life of the permit and any extension
 granted to the permit.

578-03983-17

20171312c1

(e) A rule updating the Florida Building Code in accordance with this subsection shall take effect no sooner than 6 months after publication of the updated code. Any amendment to the Florida Building Code which is adopted upon a finding by the commission that the amendment is necessary to protect the public from immediate threat of harm takes effect immediately.

(f) Provisions of the Florida Building Code foundation codes, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be modified to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, modify the provisions to enhance those construction requirements.

~~(g) Amendments or modifications to the foundation code pursuant to this subsection shall remain effective only until the effective date of a new edition of the Florida Building Code every third year. Amendments or modifications related to state agency regulations which are adopted and integrated into an edition of the Florida Building Code shall be carried forward into the next edition of the code, subject to modification as provided in this part. Amendments or modifications related to the wind resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties which are adopted to an edition of the Florida Building Code do not expire and shall be carried forward into the next edition of the code, subject to review or modification as provided in this part. If amendments that expire pursuant to this paragraph are resubmitted through the Florida Building commission code adoption process, the amendments must~~

578-03983-17

20171312c1

~~specifically address whether:~~

~~1. The provisions contained in the proposed amendment are addressed in the applicable international code.~~

~~2. The amendment demonstrates by evidence or data that the geographical jurisdiction of Florida exhibits a need to strengthen the foundation code beyond the needs or regional variations addressed by the foundation code, and why the proposed amendment applies to this state.~~

~~3. The proposed amendment was submitted or attempted to be included in the foundation codes to avoid resubmission to the Florida Building Code amendment process.~~

~~If the proposed amendment has been addressed in the international code in a substantially equivalent manner, the Florida Building commission may not include the proposed amendment in the foundation Code.~~

(8) Notwithstanding the provisions of subsection (3) or subsection (7), the commission may address issues identified in this subsection by amending the code pursuant only to the rule adoption procedures ~~contained~~ in chapter 120. ~~Provisions of The Florida Building Code, including provisions those~~ contained in referenced standards and criteria ~~which relate,~~ relating to wind resistance or the prevention of water intrusion, may not be amended pursuant to this subsection to diminish those standards construction requirements; however, the commission may, ~~subject to conditions in this subsection,~~ amend the Florida Building Code the provisions to enhance such standards those construction requirements. Following the approval of any amendments to the Florida Building Code by the commission and publication of the

578-03983-17 20171312c1

amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

- (a) Conflicts within the updated code;
- (b) Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;
- (c) Unintended results from the integration of previously adopted ~~Florida-specific~~ amendments with the model code;
- (d) Equivalency of standards;
- (e) Changes to or inconsistencies with federal or state law; or
- (f) Adoption of an updated edition of the National Electrical Code if the commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.
- (9) (a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:
 - 1. Is needed in order to accommodate the specific needs of this state.
 - 2. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
 - 3. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
 - 4. Does not discriminate against materials, products,

578-03983-17 20171312c1

methods, or systems of construction of demonstrated capabilities.

5. Does not degrade the effectiveness of the Florida Building Code.

The Florida Building Commission may approve technical amendments to the code once each year to incorporate into the Florida Building Code its own interpretations of the code which are embodied in its opinions, final orders, declaratory statements, and interpretations of hearing officer panels under s. 553.775(3)(c), but only to the extent that the incorporation of interpretations is needed to modify the code foundation codes to accommodate the specific needs of this state. Amendments approved under this paragraph shall be adopted by rule after the amendments have been subjected to subsection (3).

(b) A proposed amendment must include a fiscal impact statement that documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, and the impact to industry, relative to the cost of compliance. The amendment must demonstrate by evidence or data that the state's geographical jurisdiction exhibits a need to strengthen the ~~foundation~~ code beyond the needs or regional variations addressed by the ~~foundation~~ code and why the proposed amendment applies to this state.

(20) The Florida Building Commission may not:

(a) Adopt the 2016 version of the American Society of

578-03983-17 20171312c1

465 Heating, Refrigerating and Air-Conditioning Engineers Standard
 466 9.4.1.1(g).

467 (b) Adopt any provision that requires a door located in the
 468 opening between a garage and a residence to be equipped with a
 469 self-closing device.

470 Section 7. Subsection (2) of section 553.76, Florida
 471 Statutes, is amended to read:

472 553.76 General powers of the commission.—The commission is
 473 authorized to:

474 (2) Issue memoranda of procedure for its internal
 475 management and control. The commission may adopt rules related
 476 to its consensus-based decisionmaking process, including, but
 477 not limited to, super majority voting requirements ~~for~~
 478 commission actions relating to the adoption of the Florida
 479 Building Code or amendments to the code. However, the commission
 480 must adopt the Florida Building Code, and amendments thereto, by
 481 at least a two-thirds vote of the members present at a meeting.

482 Section 8. Subsection (20) is added to section 553.79,
 483 Florida Statutes, to read:

484 553.79 Permits; applications; issuance; inspections.—

485 (20) A political subdivision of this state may not adopt or
 486 enforce any ordinance or impose any building permit or other
 487 development order requirement that:

488 (a)1. Contains any building, construction, or aesthetic
 489 requirement or condition that conflicts with or impairs
 490 corporate trademarks, service marks, trade dress, logos, color
 491 patterns, design scheme insignia, image standards, or other
 492 features of corporate branding identity on real property or
 493 improvements thereon used in activities conducted under chapter

578-03983-17 20171312c1

494 526 or in carrying out business activities defined as a
 495 franchise by Federal Trade Commission regulations in 16 C.F.R.
 496 ss. 436.1, et. seq.; or

497 2. Imposes any requirement on the design, construction, or
 498 location of signage advertising the retail price of gasoline in
 499 accordance with the requirements of ss. 526.111 and 526.121
 500 which prevents the signage from being clearly visible and
 501 legible to drivers of approaching motor vehicles in any lane of
 502 traffic in either direction on a roadway abutting the gas
 503 station premises and which meets height, width, and spacing
 504 standards for Series C, D, or E signs, as applicable, published
 505 in the latest edition of Standard Alphabets for Highway Signs
 506 and Pavement Markings published by the Federal Highway
 507 Administration, Office of Traffic Operations.

508 (b) This subsection does not affect any requirement for
 509 design and construction in the Florida Building Code.

510 (c) All such ordinances and requirements are hereby
 511 preempted and superseded by general law. This subsection shall
 512 apply retroactively.

513 Section 9. Subsection (2) of section 553.791, Florida
 514 Statutes, is amended to read:

515 553.791 Alternative plans review and inspection.—

516 (2) (a) Notwithstanding any other law or local government
 517 ordinance or local policy, the fee owner of a building or
 518 structure, or the fee owner's contractor upon written
 519 authorization from the fee owner, may choose to use a private
 520 provider to provide building code inspection services with
 521 regard to such building or structure and may make payment
 522 directly to the private provider for the provision of such

578-03983-17

20171312c1

services. All such services shall be the subject of a written contract between the private provider, or the private provider's firm, and the fee owner or the fee owner's contractor, upon written authorization of the fee owner. The fee owner may elect to use a private provider to provide plans review or required building inspections, or both. However, if the fee owner or the fee owner's contractor uses a private provider to provide plans review, the local building official, in his or her discretion and pursuant to duly adopted policies of the local enforcement agency, may require the fee owner or the fee owner's contractor to use a private provider to also provide required building inspections.

(b) It is the intent of the Legislature that owners and contractors not be required to pay extra costs related to building permitting requirements when hiring a private provider for plans reviews and building inspections. A local jurisdiction must calculate the cost savings to the local enforcement agency, based on a fee owner or contractor hiring a private provider to perform plans reviews and building inspections in lieu of the local building official, and reduce the permit fees accordingly.

Section 10. Paragraph (d) of subsection (7) of section 553.80, Florida Statutes, is amended to read:

553.80 Enforcement.—

(7) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. When

578-03983-17

20171312c1

providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances shall be carried forward to future years for allowable activities or shall be refunded at the discretion of the local government. The basis for a fee structure for allowable activities shall relate to the level of service provided by the local government and shall include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged shall be consistently applied.

(d) The local enforcement agency, independent district, or special district may not require at any time, including at the time of application for a permit, the payment of any additional fees, charges, or expenses associated with:

1. Providing proof of licensure pursuant to chapter 489;
2. Recording or filing a license issued pursuant to this chapter; or
3. Providing, recording, or filing evidence of workers' compensation insurance coverage as required by chapter 440.

Section 11. Section 553.9081, Florida Statutes, is created to read:

553.9081 Florida Building Code; required amendments.—The Florida Building Commission shall amend the Florida Building Code—Energy Conservation to:

(1)(a) Eliminate duplicative commissioning reporting requirements for HVAC and electrical systems; and

(b) Authorize commissioning reports to be provided by a

578-03983-17 20171312c1

581 licensed design professional, electrical engineer, or mechanical
582 engineer.

583 (2) Prohibit the adoption of American Society of Heating,
584 Refrigerating and Air-Conditioning Engineers Standard
585 9.4.1.1(g).

586 Section 12. Subsection (8) of section 633.208, Florida
587 Statutes, is amended to read:

588 633.208 Minimum firesafety standards.—

589 (8) (a) The provisions of the Life Safety Code, as contained
590 in the Florida Fire Prevention Code, do not apply to one-family
591 and two-family dwellings. However, fire sprinkler protection may
592 be permitted by local government in lieu of other fire
593 protection-related development requirements for such structures.
594 While local governments may adopt fire sprinkler requirements
595 for one-family ~~one-~~ and two-family dwellings under this
596 subsection, it is the intent of the Legislature that the
597 economic consequences of the fire sprinkler mandate on home
598 owners be studied before the enactment of such a requirement.
599 After the effective date of this act, any local government that
600 desires to adopt a fire sprinkler requirement on one-family ~~one-~~
601 or two-family dwellings must prepare an economic cost and
602 benefit report that analyzes the application of fire sprinklers
603 to one-family ~~one-~~ or two-family dwellings or any proposed
604 residential subdivision. The report must consider the tradeoffs
605 and specific cost savings and benefits of fire sprinklers for
606 future owners of property. The report must include an assessment
607 of the cost savings from any reduced or eliminated impact fees
608 if applicable, the reduction in special fire district tax,
609 insurance fees, and other taxes or fees imposed, and the waiver

578-03983-17 20171312c1

610 of certain infrastructure requirements including the reduction
611 of roadway widths, the reduction of water line sizes, increased
612 fire hydrant spacing, increased dead-end roadway length, and a
613 reduction in cul-de-sac sizes relative to the costs from fire
614 sprinkling. A failure to prepare an economic report shall result
615 in the invalidation of the fire sprinkler requirement to any
616 one-family ~~one-~~ or two-family dwelling or any proposed
617 subdivision. In addition, a local jurisdiction or utility may
618 not charge any additional fee, above what is charged to a non-
619 fire sprinklered dwelling, on the basis that a one-family ~~one-~~
620 or two-family dwelling unit is protected by a fire sprinkler
621 system.

622 (b)1. A county, municipality, special taxing district,
623 public utility, or private utility may not require a separate
624 water connection for a one-family or two-family dwelling fire
625 sprinkler system if the hydraulic design has proven the existing
626 connection is capable of supplying the needed hydraulic demand.

627 2. A county, municipality, special district, public
628 utility, or private utility may not charge a water or sewer rate
629 to a one-family or two-family dwelling that requires a larger
630 water meter solely due to the installation of fire sprinklers
631 above that which is charged to a one-family and two-family
632 dwelling with a base meter. If the installation of fire
633 sprinklers in a one-family or two-family dwelling requires the
634 installation of a larger water meter, only the difference in
635 actual cost between the base water meter and the larger water
636 meter may be charged by the water utility provider.

637 Section 13. A local government may not require an owner of
638 a residence to obtain a permit to paint such residence,

578-03983-17 20171312c1

639 regardless of whether the residence is owned by a limited
 640 liability company.

641 Section 14. The Department of Education, in conjunction
 642 with the Department of Economic Opportunity, shall develop a
 643 plan to implement the recommendations of the Construction
 644 Industry Workforce Task Force Report dated January 20, 2017. The
 645 Department of Education shall provide the plan to the
 646 Construction Industry Workforce Task Force on or before July 1,
 647 2018.

648 Section 15. CareerSource Florida, Inc., shall develop and
 649 submit a plan to the Construction Industry Workforce Task Force
 650 on the potential opportunities for training programs to
 651 implement the recommendations of the Construction Industry
 652 Workforce Task Force Report dated January 20, 2017, using
 653 existing federal funds awarded to the corporation and using the
 654 previous statewide Florida ReBuilds program as an implementation
 655 model for such programs. CareerSource Florida, Inc., shall
 656 provide the plan to the Construction Industry Workforce Task
 657 Force on or before July 1, 2018.

658 Section 16. The Florida Building Commission shall adopt an
 659 amendment to the Florida Building Code-Residential, relating to
 660 door components, to provide that, regarding substitution of door
 661 components, such components must either:

662 (1) Comply with ANSI/WMA 100; or

663 (2) Be evaluated by an approved product evaluation entity,
 664 certification agency, testing laboratory, or engineer and may be
 665 interchangeable in exterior door assemblies if the components
 666 provide equal or greater structural performance as demonstrated
 667 by accepted engineering practices.

578-03983-17 20171312c1

668 Section 17. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1314

INTRODUCER: Education Committee and Senators Grimsley and Mayfield

SUBJECT: Educational Options

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Androff	Graf	ED	Fav/CS
2.	Sikes	Hansen	AP	Pre-meeting
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1314 revises the Florida Tax Credit (FTC) Scholarship Program to:

- Require the Florida Department of Revenue to provide Scholarship-Funding Organizations (SFOs) a copy of its letter denying or approving certain transactions.
- Allow a dependent child of a parent or guardian who is a member of the U.S. Armed Forces to apply for the FTC at any time.
- Specify that a parent must approve any payment made by funds transfer.
- Change the deadline from September 15 to August 15 for a private school participating in the FTC to submit its report to the SFO on the results of its agreed-upon procedures.
- Provide that the Commissioner of the Florida Department of Education (DOE) may determine that a private school is ineligible to participate in the FTC program if the school has consecutive years of material exceptions listed in its agreed-upon procedures report.
- Authorize the Learning System Institute at the Florida State University to be compensated for additional research through the project grant award issued by the DOE.
- Increase the FTC scholarship award amount to a percentage of the unweighted FTE funding amount for that state fiscal year and thereafter as follows:
 - 88 percent for a student in kindergarten through grade 5.
 - 92 percent for a student enrolled in grades 7-8.
 - 96 percent for a student enrolled in grades 9-12.
- Raise the transportation scholarship award for a student who chooses a public school outside of his or her district from \$500 to \$750.

- Provide that an SFO can make payments by fund transfer, subject to parent approval, and specifies that a student's scholarship award may not be reduced for debit card or electronic payment fees.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2017.

II. Present Situation:

The Florida Tax Credit (FTC) Scholarship program was established to provide an income tax credit for corporations that contribute money to non-profit Scholarship-Funding Organizations (SFOs) that award scholarships to students from families with limited resources.¹ The purpose of the FTC is to enable taxpayers to make private, voluntary contributions to SFOs for children of families that have limited financial resources to expand educational opportunities for these children to achieve a greater level of educational excellence and improve the quality of education in Florida.²

Eligibility

The law provides eligibility requirements for students and parents, SFOs, and private institutions.

Student Eligibility

Generally, the FTC program provides scholarship awards to children from low-income families. Prior to 2014, in order to qualify for the program based on family income a student must have attended a public school in the previous school year and have a family income at or below 185 percent of the federal poverty level.³ Legislation enacted in 2014 removed the prior public school attendance requirement and, beginning in the 2016-2017 school year, created eligibility for students with higher family incomes.⁴

For the 2016-2017 school year and thereafter, contingent upon available funds, a student is eligible for the FTC Program if he or she meets one of the following criteria:⁵

- The student is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level.
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care.
- The student's household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.

Priority is granted to students who received a scholarship in the previous year. Beginning in the 2016-17 school year, a SFO must also give priority to new applicants whose household income

¹ See s. 1002.395, F.S.

² *Id.* at (1)(b).

³ Section 1002.395(3)(b)1.a., F.S.

⁴ *Id.* at (3)(b)-(c), F.S.; s. 17, ch. 2014-184, L.O.F.

⁵ Section 1002.395(3)(c)1-3., F.S.

levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care.⁶

SFO Eligibility

SFOs are charitable organizations located in Florida that are exempt from Federal income tax.⁷ In order to participate in the FTC program, a charitable organization must submit an application for approval or renewal to the Office of Independent Education and Parental Choice within the DOE by September 1 of each year before the school year for which the SFO intends to offer scholarships.⁸ Florida law specifies the application requirements.⁹

Department of Revenue Obligations

A taxpayer may submit an application to the Department of Revenue (DOR) to obtain credits for specified taxes.¹⁰ The application should include each tax and applicable year or state fiscal year for which a credit is requested.¹¹ Currently, within 10 days of approval of the application, the DOR is directed to provide a copy of a taxpayer's credit allocation approval letter to the eligible SFO chosen by the taxpayer.¹² Any amount of unused credit due to insufficient tax liability on the part of a participating taxpayer may be carried forward for a period of not to exceed 5 years.¹³ The taxpayer must submit an application to the DOR for approval of the carryforward tax credit in the year that the taxpayer intends to use the carryforward.¹⁴ A taxpayer can convey, transfer, or assign the tax credit to member or members of its affiliated group of corporations, so long as the credit will be for the same tax.¹⁵ The DOR must approve the amount to be conveyed, transferred, or assigned.¹⁶

Scholarship Award

Beginning in fiscal year 2016-2017, the amount of a scholarship awarded to a student enrolled in an eligible private school is equal to 82 percent of the unweighted FTE funding amount for that state fiscal year and thereafter.¹⁷ The scholarship amount is adjusted based on family income, unless the student is receiving a scholarship based upon placement in foster care or out-of-home care.¹⁸

For a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides, the transportation award limit is \$500.¹⁹

⁶ Section 1002.395(6)(e), F.S.

⁷ Section 1002.395(2)(f), F.S.; see 26 U.S.C. s. 501(c)(3) and chs. 607, 608, and 617, F.S.

⁸ Section 1002.395(16), F.S.

⁹ *Id.* at (16)(a).

¹⁰ *Id.* at (5)(b).

¹¹ Florida Department of Revenue, *SB 1314 Bill Analysis* (2017), at 2.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 2-3.

¹⁷ Section 1002.395(12)(a)1., F.S.

¹⁸ *Id.* at (12)(a)3.

¹⁹ Section 1002.395(12)(a)1.b., F.S.

III. Effect of Proposed Changes:

The bill revises the Florida Tax Credit (FTC) Scholarship Program to:

- Require the Florida Department of Revenue (DOR) to provide a copy to the Scholarship-Funding Organization (SFO) of its letter denying an application for a tax credit and approving or denying any of the following transactions:
 - An application for a carryforward tax credit.
 - The conveyance, transfer, or assignment of a tax credit.
 - The rescindment of a tax credits.
 - Acknowledgement of tax credits.
- Allow a dependent child of a parent or guardian who is a member of the U.S. Armed Forces to apply for the FTC at any time.
- Specify that a parent must approve any payment made by funds transfer.
- Change the deadline from September 15 to August 15 for a private school participating in the FTC to submit its report to the SFO on the results of its agreed-upon procedures.
- Provide that the Commissioner of the Florida Department of Education (DOE) has the discretion to determine that a private school that is unable to meet the program requirements or has consecutive years of material exceptions listed in its agreed-upon procedures report is ineligible to participate in the FTC program.
- Authorize the Learning System Institute at the Florida State University to be compensated for additional research through the project grant award issued by the DOE.
- Increase the FTC scholarship award amount to a percentage of the unweighted FTE funding amount for that state fiscal year and thereafter as follows:
 - 88 percent for a student in kindergarten through grade 5.
 - 92 percent for a student enrolled in grades 7-8.
 - 96 percent for a student enrolled in grades 9-12.
- Raise the transportation scholarship award for a student who chooses a public school outside of his or her district from \$500 to \$750.
- Provide that an SFO can make payments by fund transfer and specifies that a student's scholarship award may not be reduced for debit card or electronic payment fees.
- Authorize an SFO to develop a professional development system that includes a master plan for in-service activities under the School Community Professional Development Act that must be submitted to the Commissioner of Education for approval pursuant to the State Board of Education rules.

The bill increases the award amount provided by the FTC. This may result in higher payments to parents or guardians of qualifying students and higher payments to eligible private schools that participate in the program.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill increases the award amount under the Florida Tax Credit (FTC) Scholarship Program. This may result in higher payments to parents or guardians of qualifying students and higher payments to eligible private schools that participate in the program. Currently, the scholarship is 82 percent of the current fiscal years per full-time equivalent amount in the Florida Education Finance Program. The bill revises this percentage to 88 percent for a student in kindergarten through grade 5, 92 percent for a student in grades 6 through 8 and 96 percent for a student in grades 9 through 12. According to the February 2017 Quarterly Report, there are currently 98,457 students receiving a Florida Tax Credit Scholarship, for a total of \$403,008,374.²⁰ Under the bill, based on the 2016–2017 number of students receiving scholarships, the total base amount awarded will increase to \$521,650,800.²¹ The tax credit cap for the current year is \$559,082,031. The tax credit cap amount will increase to \$698,852,539 for the 2017-2018 state fiscal year.²²

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.395 and 1012.98.

²⁰ Florida Department of Education, *HB 15 Analysis* (2017), at 9. The FTC provisions in HB 15 are substantively similar to SB 1314.

²¹ *Id.*

²² *Id.*

IX. Additional Information:

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

CS by Education on April 3, 2017:

The committee substitute clarifies that if a private school has consecutive years of material exceptions listed in its agreed-upon procedures report, the Commissioner of Education has the discretion to determine that the private school is ineligible to participate in the Florida Tax Credit Scholarship program.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 133 - 134

and insert:

subject to this paragraph must annually submit the report by
September 15, ~~2011~~, and ~~annually thereafter~~ to the

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

And the title is amended as follows:

Delete lines 11 - 13



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11 and insert:
12 responsibilities for program participation; specifying
13 that certain



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Between lines 283 and 284
insert:

Section 2. Paragraph (a) of subsection (1) of section 1002.41, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

1002.41 Home education programs.—

(1) A "home education program" is defined in s. 1002.01.
The parent is not required to hold a valid regular Florida



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teaching certificate.

(a)1. The parent shall notify the district school superintendent of the county in which the parent resides of her or his intent to establish and maintain a home education program. The notice shall be in writing, signed by the parent, and shall include the full legal names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice shall be filed in the district school superintendent's office within 30 days of the establishment of the home education program. A written notice of termination of the home education program shall be filed in the district school superintendent's office within 30 days after said termination.

2. The school district may not require the parent to provide additional information or verification unless the student chooses to participate in a school district program or service.

(11) A school district may not further regulate, exercise control over, or require documentation from parents of home education program students beyond the requirements of this section unless the regulation, control, or documentation is necessary for participation in a school district program or service.

Section 3. Subsection (4) of section 1003.21, Florida Statutes, is amended to read:

1003.21 School attendance.—

(4) Before admitting a child to kindergarten, the principal shall require evidence that the child has attained the age at which he or she should be admitted in accordance with the



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provisions of subparagraph (1)(a)2. The district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law; however, he or she may not require evidence from children meeting regular attendance requirements by attending a school or program listed in s. 1003.01(13)(b)-(e). If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(a) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births;

(b) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent;

(c) An insurance policy on the child's life that has been in force for at least 2 years;

(d) A bona fide contemporary religious record of the child's birth accompanied by an affidavit sworn to by the parent;

(e) A passport or certificate of arrival in the United States showing the age of the child;

(f) A transcript of record of age shown in the child's school record of at least 4 years prior to application, stating date of birth; or

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if these are not available in the



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county, by a licensed practicing physician designated by the district school board, which states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given temporary exemption from this section for 30 school days.

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

And the title is amended as follows:

Delete line 20

and insert:

payment method options; amending s. 1002.41, F.S.; prohibiting a district school board from requiring any additional information or verification from a home education program parent under certain circumstances; prohibiting a school district from taking certain actions against a home education program student's parent unless such action is required for a school district program or service; amending s. 1003.21, F.S.; prohibiting a district school superintendent from requiring certain evidence relating to a child's age from children enrolled in specified schools and programs; amending s. 1012.98, F.S.;



702374

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 284 - 297.

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

And the title is amended as follows:

Delete lines 20 - 23

and insert:

payment method options; providing an effective date.

By the Committee on Education; and Senator Grimsley

581-03341-17

20171314c1

A bill to be entitled

An act relating to educational options; amending s. 1002.395, F.S.; specifying the Department of Education's duty to approve or deny an application for the Florida Tax Credit Scholarship Program within a specified time; specifying the department's duties regarding the carryforward tax credit; requiring an eligible nonprofit scholarship-funding organization to allow certain dependent children to apply for a scholarship at any time; revising parent and student responsibilities for program participation; revising the date upon which certain private schools must submit a required report; specifying that certain actions of the private school are a basis for program ineligibility; authorizing the Learning Systems Institute to receive compensation for research under certain circumstances; revising the calculation of a scholarship award; increasing the limit of a scholarship award for certain students; revising payment method options; amending s. 1012.98, F.S.; authorizing specified eligible nonprofit scholarship-funding organizations to develop a professional development system; providing an effective date.

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

Section 1. Paragraph (b) of subsection (5) of section 1002.395, Florida Statutes, is amended, present paragraph (f) of that subsection is redesignated as paragraph (g) and a new

Page 1 of 11

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

581-03341-17

20171314c1

paragraph (f) is added to that subsection, and paragraph (h) of subsection (6), paragraph (f) of subsection (7), subsection (8), paragraph (j) of subsection (9), and paragraphs (a) and (b) of subsection (12) of that section are amended, to read:

1002.395 Florida Tax Credit Scholarship Program.—

(5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

(b) A taxpayer may submit an application to the department for a tax credit or credits under one or more of s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

1. The taxpayer shall specify in the application each tax for which the taxpayer requests a credit and the applicable taxable year for a credit under s. 220.1875 or s. 624.51055 or the applicable state fiscal year for a credit under s. 211.0251, s. 212.1831, or s. 561.1211. The department shall approve tax credits on a first-come, first-served basis and must obtain the division's approval before approving a tax credit under s. 561.1211.

2. Within 10 days after approving or denying an application, the department shall provide a copy of its approval or denial letter to the eligible nonprofit scholarship-funding organization specified by the taxpayer in the application.

(f) Within 10 days after approving or denying an application for a carryforward tax credit under paragraph (c), the conveyance, transfer, or assignment of a tax credit under paragraph (d), or the rescindment of a tax credit under paragraph (e), the department shall provide a copy of its approval or denial letter to the eligible nonprofit scholarship-funding organization specified by the taxpayer in the application. The department shall also include the eligible

Page 2 of 11

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

581-03341-17 20171314c1

59 nonprofit scholarship-funding organization specified by the
60 taxpayer in the application on all letters or correspondence of
61 acknowledgment for tax credits under s. 212.1831.

62 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
63 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
64 organization:

65 (h) Must allow a student in foster care, ~~or~~ out-of-home
66 care, or who is a dependent child of a parent or guardian who is
67 a member of the United States Armed Forces, to apply for a
68 scholarship at any time.

69
70 Information and documentation provided to the Department of
71 Education and the Auditor General relating to the identity of a
72 taxpayer that provides an eligible contribution under this
73 section shall remain confidential at all times in accordance
74 with s. 213.053.

75 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
76 PARTICIPATION.—

77 (f) Upon receipt of a scholarship warrant from the eligible
78 nonprofit scholarship-funding organization, the parent to whom
79 the warrant is made must restrictively endorse the warrant to
80 the private school for deposit into the account of the private
81 school. If payments are made by funds transfer, the parent must
82 approve each payment before the scholarship funds may be
83 deposited. The parent may not designate any entity or individual
84 associated with the participating private school as the parent's
85 attorney in fact to endorse a scholarship warrant or approve a
86 funds transfer. A participant who fails to comply with this
87 paragraph forfeits the scholarship.

581-03341-17 20171314c1

88 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible
89 private school may be sectarian or nonsectarian and must:

90 (a) Comply with all requirements for private schools
91 participating in state school choice scholarship programs
92 pursuant to s. 1002.421.

93 (b) Provide to the eligible nonprofit scholarship-funding
94 organization, upon request, all documentation required for the
95 student's participation, including the private school's and
96 student's fee schedules.

97 (c) Be academically accountable to the parent for meeting
98 the educational needs of the student by:

99 1. At a minimum, annually providing to the parent a written
100 explanation of the student's progress.

101 2. Annually administering or making provision for students
102 participating in the scholarship program in grades 3 through 10
103 to take one of the nationally norm-referenced tests identified
104 by the Department of Education or the statewide assessments
105 pursuant to s. 1008.22. Students with disabilities for whom
106 standardized testing is not appropriate are exempt from this
107 requirement. A participating private school must report a
108 student's scores to the parent. A participating private school
109 must annually report by August 15 the scores of all
110 participating students to the Learning System Institute
111 described in paragraph (9)(j).

112 3. Cooperating with the scholarship student whose parent
113 chooses to have the student participate in the statewide
114 assessments pursuant to s. 1008.22 or, if a private school
115 chooses to offer the statewide assessments, administering the
116 assessments at the school.

581-03341-17

20171314c1

a. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10.

b. A participating private school must submit a request in writing to the Department of Education by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

(d) Employ or contract with teachers who have regular and direct contact with each student receiving a scholarship under this section at the school's physical location.

(e) Annually contract with an independent certified public accountant to perform the agreed-upon procedures developed under paragraph (6)(o) and produce a report of the results if the private school receives more than \$250,000 in funds from scholarships awarded under this section in the 2010-2011 state fiscal year or a state fiscal year thereafter. A private school subject to this paragraph must submit the report by each August 15 by September 15, 2011, and annually thereafter to the scholarship-funding organization that awarded the majority of the school's scholarship funds. The agreed-upon procedures must be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

~~If The inability of a private school is unable to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (e), the commissioner may determine that shall constitute a basis for the ineligibility of the private school~~

581-03341-17

20171314c1

is ineligible to participate in the scholarship program as determined by the Department of Education.

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

(j) Issue a project grant award to the Learning System Institute at the Florida State University, to which participating private schools must report the scores of participating students on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10. The project term is 2 years, and the amount of the project is up to \$500,000 per year. The Learning Systems Institute may be compensated for additional research as determined through the project grant award process. The project grant award must be reissued in 2-year intervals in accordance with this paragraph.

1. The Learning System Institute must annually report to the Department of Education on the student performance of participating students and any additional research included in the project grant award issued by the Department of Education:

a. On a statewide basis. The report shall also include, to the extent possible, a comparison of scholarship students' performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program. To minimize costs and reduce time required for the Learning System Institute's analysis and evaluation, the Department of Education shall coordinate with the Learning System Institute to provide data to the Learning System Institute in order to conduct analyses of matched students from public school assessment data

581-03341-17 20171314c1

and calculate control group student performance using an agreed-upon methodology with the Learning System Institute; and

b. On an individual school basis. The annual report must include student performance for each participating private school in which at least 51 percent of the total enrolled students in the private school participated in the Florida Tax Credit Scholarship Program in the prior school year. The report shall be according to each participating private school, and for participating students, in which there are at least 30 participating students who have scores for tests administered. If the Learning System Institute determines that the 30-participating-student cell size may be reduced without disclosing personally identifiable information, as described in 34 C.F.R. s. 99.12, of a participating student, the Learning System Institute may reduce the participating-student cell size, but the cell size must not be reduced to less than 10 participating students. The department shall provide each private school's prior school year's student enrollment information to the Learning System Institute no later than June 15 of each year, or as requested by the Learning System Institute.

2. The sharing and reporting of student performance data under this paragraph must be in accordance with requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act, and the applicable rules and regulations issued pursuant thereto, and shall be for the sole purpose of research and creating the annual report required by subparagraph 1. All parties must preserve the confidentiality of such information as required by law. The annual report must not

581-03341-17 20171314c1

disaggregate data to a level that will identify individual participating schools, except as required under sub-subparagraph 1.b., or disclose the academic level of individual students.

3. The annual report required by subparagraph 1. shall be published by the Department of Education on its website.

(12) SCHOLARSHIP AMOUNT AND PAYMENT.—

(a) Except as provided in subparagraph 2., the amount of a scholarship provided to any student for any single school year by an eligible nonprofit scholarship-funding organization from eligible contributions shall be for total costs authorized under paragraph (6)(d), not to exceed annual limits, which shall be determined as follows:

1.a. For a scholarship awarded to a student enrolled in an eligible private school, the limit shall be determined as a percentage by multiplying the unweighted FTE funding amount in that state fiscal year by the percentage used to determine the limit in the prior state fiscal year. ~~However, in each state fiscal year that the tax credit cap amount increases pursuant to paragraph (5)(a), the prior year percentage shall be increased by 4 percentage points and the increased percentage shall be used to determine the limit for that state fiscal year. If the percentage so calculated reaches 80 percent in a state fiscal year, no further increase in the percentage is allowed and the limit shall be 80 percent of the unweighted FTE funding amount for that state fiscal year and thereafter. Beginning in the 2016-2017 state fiscal year, the amount of a scholarship awarded to a student enrolled in an eligible private school shall be equal to 82 percent of the unweighted FTE funding amount for that state fiscal year and thereafter~~ as follows:

581-03341-17

20171314c1

- 233 (I) Eighty-eight percent for a student enrolled in
 234 kindergarten through grade 5.
 235 (II) Ninety-two percent for a student enrolled in grade 6,
 236 grade 7, or grade 8.
 237 (III) Ninety-six percent for a student enrolled in grades 9
 238 through 12.
 239 b. For a scholarship awarded to a student enrolled in a
 240 Florida public school that is located outside the district in
 241 which the student resides or in a lab school as defined in s.
 242 1002.32, the limit shall be \$750 ~~\$500~~.
 243 2. The annual limit for a scholarship under sub-
 244 subparagraph 1.a. shall be reduced by:
 245 a. Twenty-five percent if the student's household income
 246 level is equal to or greater than 200 percent, but less than 215
 247 percent, of the federal poverty level.
 248 b. Fifty percent if the student's household income level is
 249 equal to or greater than 215 percent, but equal to or less than
 250 230 percent, of the federal poverty level.
 251 3. For the 2016-2017 state fiscal year and thereafter, the
 252 annual limit for a scholarship under sub-subparagraph 1.a. shall
 253 be reduced by:
 254 a. Twelve percent if the student's household income level
 255 is greater than or equal to 200 percent, but less than 215
 256 percent, of the federal poverty level.
 257 b. Twenty-six percent if the student's household income
 258 level is greater than or equal to 215 percent, but less than 230
 259 percent, of the federal poverty level.
 260 c. Forty percent if the student's household income level is
 261 greater than or equal to 230 percent, but less than 245 percent,

581-03341-17

20171314c1

- 262 of the federal poverty level.
 263 d. Fifty percent if the student's household income level is
 264 greater than or equal to 245 percent, but less than or equal to
 265 260 percent, of the federal poverty level.
 266 (b) Payment of the scholarship by the eligible nonprofit
 267 scholarship-funding organization shall be by individual warrant
 268 made payable to the student's parent or by funds transfer,
 269 including, but not limited to, debit card, electronic payment
 270 card, or any other means of payment that the department deems to
 271 be commercially viable or cost-effective. A student's
 272 scholarship award may not be reduced for debit card or
 273 electronic payment fees. If the payment is made by warrant
 274 ~~parent chooses that his or her child attend an eligible private~~
 275 ~~school~~, the warrant must be delivered by the eligible nonprofit
 276 scholarship-funding organization to the private school of the
 277 parent's choice, and the parent shall restrictively endorse the
 278 warrant to the private school. An eligible nonprofit
 279 scholarship-funding organization shall ensure that the parent to
 280 whom the warrant is made restrictively endorsed the warrant to
 281 the private school for deposit into the account of the private
 282 school or that the parent has approved a funds transfer before
 283 any scholarship funds are deposited.
 284 Section 2. Subsection (6) of section 1012.98, Florida
 285 Statutes, is amended to read:
 286 1012.98 School Community Professional Development Act.—
 287 (6) An organization of private schools or consortium of
 288 charter schools which has no fewer than 10 member schools in
 289 this state, or an eligible nonprofit scholarship-funding
 290 organization as defined in s. 1002.395, which publishes and

581-03341-17

20171314c1

291 files with the Department of Education copies of its standards,
292 and the member schools of which comply with the provisions of
293 part II of chapter 1003, relating to compulsory school
294 attendance, may also develop a professional development system
295 that includes a master plan for inservice activities. The system
296 and inservice plan must be submitted to the commissioner for
297 approval pursuant to state board rules.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1362

INTRODUCER: Education Committee and Senator Broxson

SUBJECT: K-12 Education

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	Fav/CS
2.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1362 creates the designation of High-Impact Charter Network (HICN), defines related terms, provides incentives for HICN entities to operate in Florida, and establishes application and review processes for the designation. Additionally, the bill:

- Eliminates the requirement for the Department of Education to compare student performance data of charter schools within a school district with public schools within that district, and with the other charter schools in Florida as well as the posting of such information on each charter school's Internet website.
- Allows a collocated school to receive a school improvement rating if all the schools at the site are eligible for a school improvement rating and do not elect to be graded.
- Replaces statutory reference to the ACT Aspire test with the PreACT.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2017.

II. Present Situation:

The Florida Legislature has enacted legislation to promote school choice and strengthen education accountability.

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor, called a charter.¹ A guiding principle of charter schools is to meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.²

Charter School Application Process

Florida law establishes an application process for establishing a new charter school.³ An applicant must submit a charter school application to the sponsor.⁴ The sponsor must review or deny the application.⁵ The law requires sponsors and applicants to use a standard charter school application and application evaluation instrument.⁶ The standard application is designed to enable the sponsor to evaluate the applicant's educational plan, organizational plan, financial viability, and business plan.⁷

In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application by May 1 with an application fee of \$500.⁸ Otherwise, a sponsor is prohibited from charging an applicant any fee for the processing or consideration of an application.⁹

Charter school sponsors evaluate a variety of factors when considering an application to open a charter school.¹⁰ The standard application requires the applicant to:¹¹

- List each proposed member of the charter school's governing board and his or her background and qualifications.
- Indicate to what extent the governing board will contract with a management company, summarize the management company's history of operating charter schools, and list other charter schools managed by the company along with student achievement and financial performance data of such schools.

Charter School Accountability

Florida law establishes several requirements designed to hold charter schools accountable both financially and academically, including:¹²

- A detailed application and rigorous review and approval process.

¹ Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

² *Id.* at (2)(a)1., F.S.

³ Section 1002.33(6)(a), F.S.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Section 1002.33(6)(b), F.S. The deadline for applications is August 1, although sponsors may receive applications later if it so chooses. *Id.*

⁹ *Id.*

¹⁰ *Id.* at (6)(a), (7), (8), (9).

¹¹ *Id.* at (6).

¹² Sections 1002.33(6), (7), (9), (16), (21), (23), (24), (26), and 1002.345, F.S.

- The execution and maintenance of charter agreements between the charter school and its sponsor.
- Annual reporting, annual financial audits, and sponsor monitoring of monthly financial statements.
- Participation in statewide assessments and Florida's school grading system.
- Interventions for unsatisfactory academic performance and financial instability.
- Reporting of student performance information to parents and the public.
- Compliance with ethical standards for employees and governing board members.

Charter School Data Reporting Requirements

The Florida Department of Education (DOE) is required to report student assessment data to each school, including charter schools, that receives a school grade or school improvement rating.¹³ In 2009, the charter school statute was amended to require the DOE to report student assessment data for any charter school that was too small to receive a school grade, but had at least 10 students with assessment scores.¹⁴ The DOE is also required to compare the performance data for each of these charter schools with student performance data in traditional public schools in the district in which the charter school was located and other charter schools in the state.¹⁵ The information must be provided on each charter school's Internet website.¹⁶ When the law was changed to require the DOE to issue a school grade to any school that had at least 10 students with assessment scores, the provision requiring a comparative report for charter schools that did not receive a school grade was not eliminated.¹⁷ The DOE is required to develop an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the statewide assessment program versus comparable public schools in the district.¹⁸

Education Accountability

Florida's K-12 accountability system was created to provide for a uniform, efficient, safe, secure and high quality system of free public schools that allows students to obtain a high-quality education.¹⁹

School Grades

Florida assigns each public school, including charter schools, a school grade in order to help parents and the public measure the performance of a school.²⁰

¹³ Section 1008.34, F.S.

¹⁴ Section 7, ch. 2009-214, L.O.F.; Florida Department of Education, *SB 1362 Analysis* (2017), at 2.

¹⁵ *Id.*

¹⁶ Section 1002.33(21)(b)3., F.S.

¹⁷ Florida Department of Education, *SB 1362 Analysis* (2017), at 2; s. 1, ch. 2014-23, L.O.F.

¹⁸ Section 1002.33(21)(b)3., F.S.; Florida Department of Education, *SB 1362 Analysis* (2017), at 2.

¹⁹ See s. 1008.345(1), F.S. The Commissioner of Education is responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability. *Id.*

²⁰ Florida Department of Education, *2016 Preliminary School Grades Overview*, available at <http://schoolgrades.fldoe.org/pdf/1516/SchoolGradesOverview16.pdf>.

Schools are graded using one of the following grades:²¹

- “A,” for schools making excellent progress – 62% or higher of total points.
- “B,” for schools making above average progress – 54% to 61% of total points.
- “C,” for schools making satisfactory progress – 41% to 53% of total points.
- “D,” for schools making less than satisfactory progress – 32% to 40% of total points.
- “F,” for schools failing to make adequate progress – 31% or less of total points.

In Florida, the lowest performing schools receive more comprehensive, state-provided intervention and support than schools that are closer to meeting state determined student achievement goals.²² A school district must select a turnaround option when a traditional public school earns a grade of “F”, two consecutive grades of “D”, or a single grade of “F”, immediately followed by a grade of “D” in the most recent grade release.²³ The first full school year after such grade is a planning year during which the school district must implement intervention and support strategies, select a school turnaround option, and submit a plan for implementing the turnaround option to the DOE for approval.²⁴ If the school does not improve by at least one letter grade at the end of the planning year, the turnaround option must be implemented the following school year.²⁵ Florida law specifies the turnaround options that a school district may select.²⁶

School Improvement Ratings

An alternative school or exceptional student education center may opt for a school improvement rating instead of a school grade.²⁷ The school improvement rating is calculated using student learning gains on statewide, standardized English Language Arts and Mathematics assessments for all eligible students who are enrolled in the school and who have assessment scores or comparable scores for the preceding school year.²⁸ Schools that improve their ratings by at least one level or maintain a commendable rating are eligible for school recognition awards.²⁹

III. Effect of Proposed Changes:

This bill creates the designation of High-Impact Charter Network (HICN), defines related terms, provides incentives for HICN entities to operate in Florida, and establishes application and review processes for the designation. Additionally, the bill:

- Eliminates the requirement for the Department of Education to compare student performance data of charter schools within a school district with public schools within that district, and with the other charter schools in Florida as well as the posting of such information on each charter school’s Internet website.

²¹ Section 1008.34(2), F.S.; rule 6A-1.09981, F.A.C.

²² Section 1008.33(2)(b) and (4), F.S.; see rule 6A-2.09981(2)(h), F.A.C. School improvement requirements were originally established under the federal 2002 reauthorization of Every Student Succeeds Act, otherwise known as the No Child Left Behind Act of 2001. Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002).

²³ Section 1008.33(4); rule 6A-1.09981(4)(b), F.A.C.

²⁴ *Id.*

²⁵ Section 1008.33(4)(c)-(e); rule 6A-1.09981(4)(c) and (5)(b), F.A.C.

²⁶ Section 1008.33(4)(b).

²⁷ Section 1008.341(2), F.S.

²⁸ *Id.* at (3).

²⁹ *Id.* at (2).

- Allows a collocated school to receive a school improvement rating if all the schools at the site are eligible for a school improvement rating and do not elect to be graded.
- Replaces statutory reference to the ACT Aspire test with the PreACT.

Charter Schools (Sections 1 and 2)

The bill makes the following modifications that affect charter schools.

High-Impact Charter Network (Section 2)

Section 2 establishes a High-Impact Charter Network (HICN) designation and specifies that the designation is valid for up to 4 years. This section defines critical need area as an area that is served by one or more nonalternative, traditional public schools that received a school grade of “D” or “F” in 4 of the last 5 years or whose school district is required to implement a turnaround option. Entity, for purposes of HICN, is defined as a nonprofit organization with tax exempt status under the federal Internal Revenue Code, which is authorized to operate a public charter school by Florida law.

Section 2 states that in order to apply for HICN status, an entity must successfully operate a system of charter schools that serves primarily economically disadvantaged students who are eligible for free or reduced-price lunches under the National School Lunch Act.

Application and Review Process

Section 2 authorizes the SBE to adopt rules prescribing an application and review process for the HICN and specifies that the review:

- Must include student demographic information and a review of all schools currently and previously operated by the entity, including school-level financial performances and school wide and subgroup performance on all statewide assessments for the most recent 3 years as compared to all students in other schools at the same grade level and as compared to other schools serving similar student demographics.
- May include student performance on nationally norm-referenced tests, attendance and retention rates, graduation rates, college attendance rates, college persistence rates, and other outcome measures as determined by the state board.

The initial HICN designation is valid for up to 4 years. If an entity seeks to renew its status, the SBE must review the academic and financial performance of the charter schools established in critical need areas.

Incentives

Section 2 grants the following incentives to HICN entities:

- Authorizes an HICN to apply to a district school board to establish and operate charter schools in critical need areas or as turnaround options for schools that have earned a grade of “F” in the school district.
- Provides that a charter school operated by an HICN in a critical need area is eligible to receive charter school capital outlay immediately, rather than after 2 years of operation.

- Requires the Florida Department of Education (DOE) to give priority to new charter schools operated by HICNs in a critical need area in the Florida Public Charter School Grant Program competitions.
- Specifies that the governing board of a HICN must be designated as a local educational agency for the purposes of receiving federal funds if the governing board has adopted and filed a resolution with its sponsoring district school board and the DOE. This resolution must contain provisions indicating that the governing board accepts the full responsibility for all local educational agency requirements and that the charter schools for which the governing board will perform local educational responsibilities are all located in the same county.

The establishment of the HICN designation may result in the creation of additional charter schools to serve students in critical need areas within the state. The number of charter schools that will open in critical need areas is not known.³⁰

Reporting Requirements (Section 1)

Section 1 deletes the requirement for the DOE to compare the student performance data of each charter school to traditional district-managed public schools within the district and other charter schools across the state. The bill also eliminates the posting of such information on the Internet website of each charter school. This may limit public access to such comparative student performance data.

Education Accountability (Sections 3 and 4)

Additionally, section 4 provides that a collocated school that does not earn a school grade or school improvement rating for the performance of its own students may use an aggregated school improvement rating under certain circumstances. A collocated school may use the aggregated school improvement rating if all schools at the site are eligible for a school improvement rating and do not elect to be graded.³¹ Under this option, the student performance data of all schools operating at the same facility must be aggregated to develop a school improvement rating.³² This may result in more collocated schools qualifying for and using a combined school improvement rating.³³

Finally, section 3 makes a conforming name change to replace statutory references to the ACT Aspire with the PreAct, which is the current name of the test.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁰ Florida Department of Education, *SB 1362 Analysis* (2017), at 6.

³¹ *Id.* at 4.

³² *Id.* at 4-5.

³³ *Id.* at 5.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures.

The bill provides that new charter schools opened by High-Impact Charter Networks in critical need areas will be eligible for charter school capital outlay immediately, without the requirement of having been in operation for 2 years. It is not known how many such schools will be opened under the bill. The charter school capital outlay funding allocation for the 2016-2017 fiscal year was \$75 million and was allocated to 557 charter schools.³⁴ The estimated state average funding is \$298 per full-time equivalent (FTE).³⁵ The number of eligible charter schools and the average amount per FTE for the 2017-2018 fiscal year will not be final until June 2017, and an increase in the number of charter schools may result in a decrease in the individual school allocations.³⁶ The overall impact on capital outlay funding allocations is indeterminable.³⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.33, 1007.35, and 1008.34.

³⁴ Florida Department of Education, *SB 1362 Bill Analysis* (2017), at 6.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

This bill creates the following section of the Florida Statutes: 1002.334.

IX. Additional Information:

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

CS by Education on April 17, 2017:

The committee substitute assigns a new section of law to the High-Impact Charter Network provisions in the bill and replaces the statutory references to the ACT Aspire test with the PreACT, which was referenced as the Preliminary ACT in SB 1362.

- B. **Amendments:**

None.



890458

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1), paragraphs (a), (b), (c), and
(h) of subsection (6), subsection (7), paragraph (b) of
subsection (8), paragraph (a) of subsection (10), paragraph (h)
of subsection (12), subsection (13), paragraphs (b) and (c) of
subsection (17), paragraph (c) of subsection (18), subsection
(20), paragraphs (a) and (b) of subsection (21), and subsections



890458

(25) and (28) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(1) AUTHORIZATION. ~~Charter schools shall be part of the state's program of public education.~~ All charter schools in Florida are public schools and shall be part of the state's program of public education. A charter school may be formed by creating a new school or converting an existing public school to charter status. A charter school may operate a virtual charter school pursuant to s. 1002.45(1)(d) to provide full-time online instruction to eligible students, pursuant to s. 1002.455, in kindergarten through grade 12. An existing charter school that is seeking to become a virtual charter school must amend its charter or submit a new application pursuant to subsection (6) to become a virtual charter school. A virtual charter school is subject to the requirements of this section; however, a virtual charter school is exempt from subsections (18) and (19), ~~subparagraphs (20)(a) 2., 4., 5., and 7.,~~ paragraph (20)(c), and s. 1003.03. A public school may not use the term charter in its name unless it has been approved under this section.

(6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:

(a) A person or entity seeking to open a charter school shall prepare and submit an application on the standard ~~a model~~ application form prepared by the Department of Education which:

1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.

2. Provides a detailed curriculum plan that illustrates how



890458

students will be provided services to attain the Sunshine State Standards.

3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.

4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny an application if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.

5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

6. Discloses the name of each applicant, governing board member, and all proposed education services providers; the name and sponsor of any charter school operated by each applicant, each governing board member, and each proposed education services provider that has closed and the reasons for the closure; and the academic and financial history of such charter schools, which the sponsor shall consider in deciding whether to approve or deny the application.

7. Contains additional information a sponsor may require,



890458

which shall be attached as an addendum to the charter school application described in this paragraph.

8. For the establishment of a virtual charter school, documents that the applicant has contracted with a provider of virtual instruction services pursuant to s. 1002.45(1)(d).

(b) A sponsor shall receive and review all applications for a charter school using the evaluation instrument developed by the Department of Education. A sponsor shall receive and consider charter school applications received on or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted before August 1 and may receive an application submitted later than August 1 if it chooses.

Beginning in 2018 and thereafter, a sponsor shall receive and consider charter school applications received on or before February 1 of each calendar year for charter schools to be opened 18 months later at the beginning of the school district's school year, or to be opened at a time agreed to by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted before February 1 and may receive an application submitted later than February 1 if it chooses. ~~In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor shall review and provide feedback as to material deficiencies in the application by July 1. The applicant shall then have until~~



890458

~~August 1 to resubmit a revised and final application. The~~
~~sponsor may approve the draft application. Except as provided~~
~~for a draft application,~~ A sponsor may not charge an applicant
for a charter any fee for the processing or consideration of an
application, and a sponsor may not base its consideration or
approval of a final application upon the promise of future
payment of any kind. Before approving or denying any ~~final~~
application, the sponsor shall allow the applicant, upon receipt
of written notification, at least 7 calendar days to make
technical or nonsubstantive corrections and clarifications,
including, but not limited to, corrections of grammatical,
typographical, and like errors or missing signatures, if such
errors are identified by the sponsor as cause to deny the final
application.

1. In order to facilitate an accurate budget projection
process, a sponsor shall be held harmless for FTE students who
are not included in the FTE projection due to approval of
charter school applications after the FTE projection deadline.
In a further effort to facilitate an accurate budget projection,
within 15 calendar days after receipt of a charter school
application, a sponsor shall report to the Department of
Education the name of the applicant entity, the proposed charter
school location, and its projected FTE.

2. In order to ensure fiscal responsibility, an application
for a charter school shall include a full accounting of expected
assets, a projection of expected sources and amounts of income,
including income derived from projected student enrollments and
from community support, and an expense projection that includes
full accounting of the costs of operation, including start-up



890458

costs.

3.a. A sponsor shall by a majority vote approve or deny an application no later than 90 ~~60~~ calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 or a high-performing charter school system identified pursuant to s. 1002.332 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

(I) The application does not materially comply with the requirements in paragraph (a);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9) (a) - (f);

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or



890458

false statement or concealed an essential or material fact during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

Material noncompliance is a failure to follow requirements or a violation of prohibitions applicable to charter school applications, which failure is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools.

c. If the sponsor denies an application submitted by a high-performing charter school or a high-performing charter school system, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor's denial of the application in accordance with ~~directly to the State Board of Education and, if an appeal is filed, must provide a copy of the appeal to the sponsor pursuant to~~ paragraph (c).

4. For budget projection purposes, the sponsor shall report



890458

to the Department of Education the approval or denial of an application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of an application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted. A charter school may defer the opening of the school's operations for up to 2 years to provide time for adequate facility planning. The charter school must provide written notice of such intent to the sponsor and the parents of enrolled students at least 30 calendar days before the first day of school.

(c)1. An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the sponsor's decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal. Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward its recommendation to the state board at least 7 calendar days before the date on which the appeal is to be heard. ~~An appeal regarding the denial of an application submitted by a high-performing charter school~~



890458

~~pursuant to s. 1002.331 shall be conducted by the State Board of Education in accordance with this paragraph, except that the commission shall not convene to make recommendations regarding the appeal. However, the Commissioner of Education shall review the appeal and make a recommendation to the state board.~~

2. The Charter School Appeal Commission ~~or, in the case of an appeal regarding an application submitted by a high-performing charter school, the State Board of Education~~ may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant shall have 15 calendar days after notice of rejection in which to resubmit an appeal that meets the requirements set forth in State Board of Education rule. An appeal submitted subsequent to such rejection is considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the sponsor's denial of the charter application.

3.a. The State Board of Education shall by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

b. If an appeal concerns an application submitted by a high-performing charter school identified pursuant to s. 1002.331 or a high-performing charter school system identified



890458

pursuant to s. 1002.332, the State Board of Education shall determine whether the sponsor's denial was in accordance with sub-subparagraph (b)3.b. ~~sponsor has shown, by clear and convincing evidence, that:~~

~~(I) The application does not materially comply with the requirements in paragraph (a);~~

~~(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);~~

~~(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;~~

~~(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or~~

~~(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.~~

~~The State Board of Education shall approve or reject the sponsor's denial of an application no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the Administrative Procedure Act, chapter 120.~~

~~(h) The terms and conditions for the operation of a charter~~



890458

~~school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor may not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The sponsor has 30 days after approval of the application to provide an initial proposed charter contract to the charter school. The applicant and the sponsor have 40 days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days prior to the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge has final order authority to rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative~~



890458

~~hearing shall be paid by the party whom the administrative law judge rules against.~~

(7) CHARTER.—The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor and the governing board of the charter school shall use the standard charter contract pursuant to subsection (21), which shall incorporate the approved application and any addenda approved with the application. Any term or condition of a proposed charter contract that differs from the standard charter contract adopted by rule of the State Board of Education shall be presumed a limitation on charter school flexibility. The sponsor may not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals ~~The major issues involving the operation of a charter school shall be considered in advance and written into the charter.~~ The charter shall be signed by the governing board of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and



890458

professional standards.

a. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Next Generation Sunshine State Standards and grounded in scientifically based reading research.

b. In order to provide students with access to diverse instructional delivery models, to facilitate the integration of technology within traditional classroom instruction, and to provide students with the skills they need to compete in the 21st century economy, the Legislature encourages instructional methods for blended learning courses consisting of both traditional classroom and online instructional techniques. Charter schools may implement blended learning courses which combine traditional classroom instruction and virtual instruction. Students in a blended learning course must be full-time students of the charter school pursuant to s.

1011.61(1)(a)1. ~~and receive the online instruction in a classroom setting at the charter school.~~ Instructional personnel certified pursuant to s. 1012.55 who provide virtual instruction for blended learning courses may be employees of the charter school or may be under contract to provide instructional services to charter school students. At a minimum, such instructional personnel must hold an active state or school district adjunct certification under s. 1012.57 for the subject area of the blended learning course. The funding and performance accountability requirements for blended learning courses are the



890458

same as those for traditional courses.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description of:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established.

b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. The methods shall provide a means for the charter school to ensure accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program created under s. 1008.22.

5. In secondary charter schools, a method for determining



890458

that a student has satisfied the requirements for graduation in s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.

6. A method for resolving conflicts between the governing board of the charter school and the sponsor.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct. Admission or dismissal must not be based on a student's academic performance.

8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

9. The financial and administrative management of the school, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services and the description of clearly delineated responsibilities and the policies and practices needed to effectively manage the charter school. A description of internal audit procedures and establishment of controls to ensure that financial resources are properly managed must be included. Both public sector and private sector professional experience shall be equally valid in such a consideration.

10. The asset and liability projections required in the application which are incorporated into the charter and shall be compared with information provided in the annual report of the charter school.

11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of



890458

losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

12. The term of the charter which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for 4 or 5 years. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the district school board. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the district school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only according to the provisions set forth in subsection (8).

13. The facilities to be used and their location. The sponsor may not require a charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility earlier than 15 calendar days before the first day of



890458

school.

14. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

15. The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (12) (i).

16. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

17. In the case of an existing public school that is being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

18. Full disclosure of the identity of all relatives employed by the charter school who are related to the charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority. For the purpose of this subparagraph, the term "relative" means father,



890458

mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

19. Implementation of the activities authorized under s. 1002.331 by the charter school when it satisfies the eligibility requirements for a high-performing charter school. A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable.

(b) The sponsor has 30 days after approval of the application to provide an initial proposed charter contract to the charter school. The applicant and the sponsor have 40 days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days before the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any dispute relating to the approved charter, except a dispute regarding a charter school application denial. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of



890458

Administrative Hearings. The administrative law judge has final order authority to rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or any other matter regarding this section, except a dispute regarding charter school application denial, a charter termination, or a charter nonrenewal. The administrative law judge shall award the prevailing party reasonable attorney fees and costs incurred during the mediation process, administrative proceeding, and any appeals, to be paid by the party whom the administrative law judge rules against.

(c)-(b) 1. A charter may be renewed provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (8) (a) has been documented. In order to facilitate long-term financing for charter school construction, charter schools operating for a minimum of 3 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

2. The 15-year charter renewal that may be granted pursuant to subparagraph 1. shall be granted to a charter school that has received a school grade of "A" or "B" pursuant to s. 1008.34 in 3 of the past 4 years and is not in a state of financial emergency or deficit position as defined by this section. Such long-term charter is subject to annual review and may be terminated during the term of the charter pursuant to subsection (8).



890458

533 (d)~~(e)~~ A charter may be modified during its initial term or
534 any renewal term upon the recommendation of the sponsor or the
535 charter school's governing board and the approval of both
536 parties to the agreement. Modification may include, but is not
537 limited to, consolidation of multiple charters into a single
538 charter if the charters are operated under the same governing
539 board and physically located on the same campus, regardless of
540 the renewal cycle.

541 (e)~~(d)~~ A charter may be terminated by a charter school's
542 governing board through voluntary closure. The decision to cease
543 operations must be determined at a public meeting. The governing
544 board shall notify the parents and sponsor of the public meeting
545 in writing before the public meeting. The governing board must
546 notify the sponsor, parents of enrolled students, and the
547 department in writing within 24 hours after the public meeting
548 of its determination. The notice shall state the charter
549 school's intent to continue operations or the reason for the
550 closure and acknowledge that the governing board agrees to
551 follow the procedures for dissolution and reversion of public
552 funds pursuant to paragraphs (8)(e)-(g) and (9)(o).

553 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

554 (b) At least 90 days before ~~prior to~~ renewing, nonrenewing,
555 or terminating a charter, the sponsor shall notify the governing
556 board of the school of the proposed action in writing. The
557 notice shall state in reasonable detail the grounds for the
558 proposed action and stipulate that the school's governing board
559 may, within 14 calendar days after receiving the notice, request
560 a hearing. The hearing shall be conducted at the sponsor's
561 election in accordance with one of the following procedures:



890458

1. A direct hearing conducted by the sponsor within 60 days after receipt of the request for a hearing. The hearing shall be conducted in accordance with ss. 120.569 and 120.57. The sponsor shall decide upon nonrenewal or termination by a majority vote. The sponsor's decision shall be a final order; or

2. A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings. The hearing shall be conducted within 60 days after receipt of the request for a hearing and in accordance with chapter 120. The administrative law judge's recommended order shall be submitted to the sponsor. A majority vote by the sponsor shall be required to adopt or modify the administrative law judge's recommended order. The sponsor shall issue a final order.

(10) ELIGIBLE STUDENTS.—

(a) A charter school may be exempt from the requirements of s. 1002.31 if the school is ~~shall be~~ open to any student covered in an interdistrict agreement and any student ~~or~~ residing in the school district in which the charter school is located.†

However, in the case of a charter lab school, the charter lab school shall be open to any student eligible to attend the lab school as provided in s. 1002.32 or who resides in the school district in which the charter lab school is located. Any eligible student shall be allowed interdistrict transfer to attend a charter school when based on good cause. Good cause shall include, but is not limited to, geographic proximity to a charter school in a neighboring school district.

(12) EMPLOYEES OF CHARTER SCHOOLS.—

(h) For the purposes of tort liability, the charter school, including its governing body and employees, ~~of a charter school~~



890458

shall be governed by s. 768.28. This paragraph does not include any for-profit entity contracted by the charter school or its governing body.

(13) CHARTER SCHOOL COOPERATIVES.—Charter schools may enter into cooperative agreements to form charter school cooperative organizations that may provide the following services to further educational, operational, and administrative initiatives in which the participating charter schools share common interests—~~charter school planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.~~

(17) FUNDING.—Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a charter lab school shall be as provided in s. 1002.32.

(b) The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law are entitled to their



890458

proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation, the research-based reading allocation, and the Florida digital classrooms allocation. Total funding for each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education. For charter schools operated by a not-for-profit or municipal entity, any unrestricted surplus operating funds, unrestricted surplus capital outlay funds, or unrestricted net assets identified in the charter school's annual audit may be used for other charter schools in the district operated by the not-for-profit or municipal entity. Unrestricted surplus operating funds shall be used in accordance with s. 1011.62, and unrestricted surplus capital outlay funds shall be used in accordance with s. 1013.62(2).

~~(c) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board.~~ Pursuant to ~~provisions of~~ 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months after the charter school first opens and within 5 months after any subsequent expansion of enrollment.



890458

Unless otherwise mutually agreed to by the charter school and its sponsor, and consistent with state and federal rules and regulations governing the use and disbursement of federal funds, the sponsor shall reimburse the charter school on a monthly basis for all invoices submitted by the charter school for federal funds available to the sponsor for the benefit of the charter school, the charter school's students, and the charter school's students as public school students in the school district. Such federal funds include, but are not limited to, Title I, Title II, and Individuals with Disabilities Education Act (IDEA) funds. To receive timely reimbursement for an invoice, the charter school must submit the invoice to the sponsor at least 30 days before the monthly date of reimbursement set by the sponsor. In order to be reimbursed, any expenditures made by the charter school must comply with all applicable state rules and federal regulations, including, but not limited to, the applicable federal Office of Management and Budget Circulars; the federal Education Department General Administrative Regulations; and program-specific statutes, rules, and regulations. Such funds may not be made available to the charter school until a plan is submitted to the sponsor for approval of the use of the funds in accordance with applicable federal requirements. The sponsor has 30 days to review and approve any plan submitted pursuant to this paragraph.

(18) FACILITIES.—

(c) Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board, pursuant to subsection (7), shall be exempt from ad valorem taxes pursuant to s. 196.1983. Library,



890458

community service, museum, performing arts, theatre, cinema, church, Florida College System institution, college, and university facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations without obtaining a special exception, rezoning, a land use charter, or any other form of approval.

(20) SERVICES.—

(a)1. A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the charter school, are provided by the school district at the request of the charter school, that any funds due to the charter school under the federal lunch program be paid to the charter school as soon as the charter school begins serving food under the federal lunch program, and that the charter school is paid at the same time and in the same manner under the federal lunch program as other public schools serviced by the sponsor or the school district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test



890458

scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district.

2. A sponsor may withhold an administrative fee for the provision of such services which shall be a percentage of the available funds defined in paragraph (17)(b) calculated based on weighted full-time equivalent students. If the charter school serves 75 percent or more exceptional education students as defined in s. 1003.01(3), the percentage shall be calculated based on unweighted full-time equivalent students. The administrative fee shall be calculated as follows:

a. Up to 5 percent for:

(I) Enrollment of up to and including 250 students in a charter school as defined in this section.

(II) Enrollment of up to and including 500 students within a charter school system which meets all of the following:

(A) Includes conversion charter schools and nonconversion charter schools.

(B) Has all of its schools located in the same county.

(C) Has a total enrollment exceeding the total enrollment of at least one school district in the state.

(D) Has the same governing board for all of its schools.

(E) Does not contract with a for-profit service provider for management of school operations.

(III) Enrollment of up to and including 250 students in a virtual charter school.

b. Up to 2 percent for enrollment of up to and including 250 students in a high-performing charter school as defined in



890458

s. 1002.331.

3. A sponsor may not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum percentage of administrative fees withheld pursuant to this paragraph ~~A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (17)(b) for all students, except that when 75 percent or more of the students enrolled in the charter school are exceptional students as defined in s. 1003.01(3), the 5 percent of those available funds shall be calculated based on unweighted full-time equivalent students. However, a sponsor may only withhold up to a 5 percent administrative fee for enrollment for up to and including 250 students. For charter schools with a population of 251 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(3).~~

~~3. For high-performing charter schools, as defined in s. 1002.331, a sponsor may withhold a total administrative fee of up to 2 percent for enrollment up to and including 250 students per school.~~

~~4. In addition, a sponsor may withhold only up to a 5-percent administrative fee for enrollment for up to and including 500 students within a system of charter schools which meets all of the following:~~

~~a. Includes both conversion charter schools and nonconversion charter schools;~~

~~b. Has all schools located in the same county;~~



890458

~~e. Has a total enrollment exceeding the total enrollment of
at least one school district in the state;~~

~~d. Has the same governing board; and~~

~~e. Does not contract with a for-profit service provider for
management of school operations.~~

~~5. The difference between the total administrative fee
calculation and the amount of the administrative fee withheld
pursuant to subparagraph 4. may be used for instructional and
administrative purposes as well as for capital outlay purposes
specified in s. 1013.62(3).~~

~~6. For a high-performing charter school system that also
meets the requirements in subparagraph 4., a sponsor may
withhold a 2-percent administrative fee for enrollments up to
and including 500 students per system.~~

~~7. Sponsors shall not charge charter schools any additional
fees or surcharges for administrative and educational services
in addition to the maximum 5-percent administrative fee withheld
pursuant to this paragraph.~~

~~8. The sponsor of a virtual charter school may withhold a
fee of up to 5 percent. The funds shall be used to cover the
cost of services provided under subparagraph 1. and
implementation of the school district's digital classrooms plan
pursuant to s. 1011.62.~~

(b) If goods and services are made available to the charter
school through the contract with the school district, they shall
be provided to the charter school at a rate no greater than the
district's actual cost unless mutually agreed upon by the
charter school and the sponsor in a contract negotiated
separately from the charter. When mediation has failed to



890458

794 resolve disputes over contracted services or contractual matters
795 not included in the charter, an appeal may be made for a dispute
796 resolution hearing before the Charter School Appeal Commission.
797 To maximize the use of state funds, school districts shall allow
798 charter schools to participate in the sponsor's bulk purchasing
799 program if applicable.

800 (c) Transportation of charter school students shall be
801 provided by the charter school consistent with the requirements
802 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
803 body of the charter school may provide transportation through an
804 agreement or contract with the district school board, a private
805 provider, or parents. The charter school and the sponsor shall
806 cooperate in making arrangements that ensure that transportation
807 is not a barrier to equal access for all students residing
808 within a reasonable distance of the charter school as determined
809 in its charter.

810 (d) Each charter school shall annually complete and submit
811 a survey, provided in a format specified by the Department of
812 Education, to rate the timeliness and quality of services
813 provided by the district in accordance with this section. The
814 department shall compile the results, by district, and include
815 the results in the report required under sub-sub-subparagraph
816 (5) (b) 1.k. (III) .

817 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

818 (a) The Department of Education shall provide information
819 to the public, directly and through sponsors, on how to form and
820 operate a charter school and how to enroll in a charter school
821 once it is created. This information shall include the standard
822 ~~a model~~ application form, standard charter contract, standard



890458

evaluation instrument, and standard charter renewal contract, which shall include the information specified in subsection (7) and shall be developed by consulting and negotiating with both school districts and charter schools before implementation. The charter and charter renewal contracts shall be used by charter school sponsors.

(b)1. The Department of Education shall report to each charter school receiving a school grade pursuant to s. 1008.34 or a school improvement rating pursuant to s. 1008.341 the school's student assessment data.

2. The charter school shall report the information in subparagraph 1. to each parent of a student at the charter school, the parent of a child on a waiting list for the charter school, the district in which the charter school is located, and the governing board of the charter school. This paragraph does not abrogate the provisions of s. 1002.22, relating to student records, or the requirements of 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act.

~~3.a. Pursuant to this paragraph, the Department of Education shall compare the charter school student performance data for each charter school in subparagraph 1. with the student performance data in traditional public schools in the district in which the charter school is located and other charter schools in the state. For alternative charter schools, the department shall compare the student performance data described in this paragraph with all alternative schools in the state. The comparative data shall be provided by the following grade groupings:~~

~~(I) Grades 3 through 5;~~



890458

~~(II) Grades 6 through 8; and~~

~~(III) Grades 9 through 11.~~

~~b. Each charter school shall provide the information specified in this paragraph on its Internet website and also provide notice to the public at large in a manner provided by the rules of the State Board of Education. The State Board of Education shall adopt rules to administer the notice requirements of this subparagraph pursuant to ss. 120.536(1) and 120.54. The website shall include, through links or actual content, other information related to school performance.~~

(25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER SCHOOL SYSTEMS.—

(a) A charter school system's governing board shall be designated a local educational agency for the purpose of receiving federal funds, the same as though the charter school system were a school district, if the governing board of the charter school system has adopted and filed a resolution with its sponsoring district school board and the Department of Education in which the governing board of the charter school system accepts the full responsibility for all local education agency requirements and the charter school system meets all of the following:

~~(a) Includes both conversion charter schools and nonconversion charter schools;~~

1. (b) Has all schools located in the same county;

2. (c) Has a total enrollment exceeding the total enrollment of at least one school district in the state; and

3. (d) Has the same governing board. ~~;~~ and

(b) A charter school system's governing board may be



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designated a local educational agency for the purpose of receiving federal funds for all schools within a school district that are established pursuant to s. 1008.33 and are under the jurisdiction of the governing board. The governing board must adopt and file a resolution with its sponsoring district school board and the Department of Education and accept full responsibility for all local educational agency requirements.

~~(c) Does not contract with a for-profit service provider for management of school operations.~~

Such designation does not apply to other provisions unless specifically provided in law.

(28) RULEMAKING.—The Department of Education, after consultation with school districts and charter school directors, shall recommend that the State Board of Education adopt rules to implement specific subsections of this section. Such rules shall require minimum paperwork and shall not limit charter school flexibility authorized by statute. The State Board of Education shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to implement a standard charter ~~model~~ application form, standard application form for the replication of charter schools in a high-performing charter school system, standard evaluation instrument, and standard charter and charter renewal contracts in accordance with this section.

Section 2. Paragraph (b) of subsection (2) of section 1002.3305, Florida Statutes, is amended to read:

1002.3305 College-preparatory Boarding Academy Pilot Program for at-risk students.—

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



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(b) "Eligible student" means a student who is a resident of the state and entitled to attend school in a participating school district, is at risk of academic failure, is currently enrolled in grade 5-12, if it is determined by the operator that a seat is available ~~grade 5 or 6~~, is from a family whose gross income is at or below 200 percent of the federal poverty guidelines, is eligible for benefits or services funded by Temporary Assistance for Needy Families (TANF) or Title IV-E of the Social Security Act, and meets at least one of the following additional risk factors:

1. The child is in foster care or has been declared an adjudicated dependent by a court.

2. The student's head of household is not the student's custodial parent.

3. The student resides in a household that receives a housing voucher or has been determined eligible for public housing assistance.

4. A member of the student's immediate family has been incarcerated.

5. The child is covered under the terms of the state's Child Welfare Waiver Demonstration project with the United States Department of Health and Human Services.

Section 3. Subsection (3) of section 1002.331, Florida Statutes, is amended to read:

1002.331 High-performing charter schools.—

(3)(a)1. A high-performing charter school may submit an application pursuant to s. 1002.33(6) in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program. An



890458

application submitted by a high-performing charter school must state that the application is being submitted pursuant to this paragraph and must include the verification letter provided by the Commissioner of Education pursuant to subsection (4).

2. If the sponsor fails to act on the application within 90 ~~60~~ days after receipt, the application is deemed approved and the procedure in s. 1002.33(7) ~~1002.33(6)(h)~~ applies. ~~If the sponsor denies the application, the high-performing charter school may appeal pursuant to s. 1002.33(6).~~

(b) A high-performing charter school may not establish more than one charter school within the state under paragraph (a) in any year. A subsequent application to establish a charter school under paragraph (a) may not be submitted unless each charter school established in this manner achieves high-performing charter school status. However, a high-performing charter school may establish more than one charter school within the state under paragraph (a) in any year if it operates in the area of a persistently low-performing school and serves students from that school.

Section 4. Paragraph (b) of subsection (2) of section 1002.332, Florida Statutes is amended, and paragraph (c) is added to that subsection, to read:

1002.332 High-performing charter school system.—

(2) (b) A high-performing charter school system may replicate its high-performing charter schools in any school district in the state. The applicant must submit an application using the standard application form prepared by the Department of Education which:

1. Contains goals and objectives for improving student



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learning and a process for measuring student improvement. These goals and objectives must indicate how much academic improvement students are expected to demonstrate each year, how success will be evaluated, and the specific results to be attained through instruction.

2. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenue and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

3. Discloses the name of each applicant, governing board member, and all proposed education services providers; the name and sponsor of any charter school operated by each applicant, each governing board member, and each proposed education services provider that has closed and the reasons for the closure; and the academic and financial history of such charter schools, which the sponsor shall consider when deciding whether to approve or deny the application.

(c) An application submitted by a high-performing charter school system must state that the application is being submitted pursuant to this section and must include the verification letter provided by the Commissioner of Education pursuant to this subsection. If the sponsor fails to act on the application within 90 days after receipt, the application is deemed approved and the procedure in s. 1002.33(7) applies ~~pursuant to s. 1002.33(3).~~

Section 5. Subsection (1) of section 1003.498, Florida Statutes, is amended to read:



890458

1003.498 School district virtual course offerings.—

(1) School districts may deliver courses in the traditional school setting by personnel certified pursuant to s. 1012.55 who provide direct instruction through virtual instruction or through blended learning courses consisting of both traditional classroom and online instructional techniques. Students in a blended learning course must be full-time students of the school pursuant to s. 1011.61(1)(a)1. ~~and receive the online instruction in a classroom setting at the school.~~ The funding, performance, and accountability requirements for blended learning courses are the same as those for traditional courses. To facilitate the delivery and coding of blended learning courses, the department shall provide identifiers for existing courses to designate that they are being used for blended learning courses for the purpose of ensuring the efficient reporting of such courses. A district may report full-time equivalent student membership for credit earned by a student who is enrolled in a virtual education course provided by the district which is completed after the end of the regular school year if the FTE is reported no later than the deadline for amending the final student membership report for that year.

Section 6. Subsection (5), paragraph (j) of subsection (6), and paragraph (a) of subsection (8) of section 1007.35, Florida Statutes, are amended to read:

1007.35 Florida Partnership for Minority and Underrepresented Student Achievement.—

(5) Each public high school, including, but not limited to, schools and alternative sites and centers of the Department of Juvenile Justice, shall provide for the administration of the



890458

Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), or the preliminary ACT Aspire to all enrolled 10th grade students. However, a written notice shall be provided to each parent which must ~~that shall~~ include the opportunity to exempt his or her child from taking the PSAT/NMSQT or the preliminary ACT Aspire.

(a) Test results will provide each high school with a database of student assessment data which certified school counselors will use to identify students who are prepared or who need additional work to be prepared to enroll and be successful in AP courses or other advanced high school courses.

(b) Funding for the PSAT/NMSQT or the preliminary ACT Aspire for all 10th grade students shall be contingent upon annual funding in the General Appropriations Act.

(c) Public school districts must choose either the PSAT/NMSQT or the preliminary ACT Aspire for districtwide administration.

(6) The partnership shall:

(j) Provide information to students, parents, teachers, counselors, administrators, districts, Florida College System institutions, and state universities regarding PSAT/NMSQT or the preliminary ACT Aspire administration, including, but not limited to:

1. Test administration dates and times.

2. That participation in the PSAT/NMSQT or the preliminary ACT Aspire is open to all 10th grade students.

3. The value of such tests in providing diagnostic feedback on student skills.

4. The value of student scores in predicting the



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probability of success on AP or other advanced course examinations.

(8)(a) By September 30 of each year, the partnership shall submit to the department a report that contains an evaluation of the effectiveness of the delivered services and activities. Activities and services must be evaluated on their effectiveness at raising student achievement and increasing the number of AP or other advanced course examinations in low-performing middle and high schools. Other indicators that must be addressed in the evaluation report include the number of middle and high school teachers trained; the effectiveness of the training; measures of postsecondary readiness of the students affected by the program; levels of participation in 10th grade PSAT/NMSQT or the preliminary ACT Aspire testing; and measures of student, parent, and teacher awareness of and satisfaction with the services of the partnership.

Section 7. Paragraph (d) of subsection (3) of section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—

(3) DESIGNATION OF SCHOOL GRADES.—

(d) The data performance of students attending alternative schools, ~~and~~ students designated as hospital or homebound, and students who transfer to a private school shall be factored into a school grade as follows:

1. The student performance data for eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53 shall be included in the calculation of the home school's grade. The



890458

term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice. As used in this subparagraph, the term "home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. If an alternative school chooses to be graded under this section, student performance data for eligible students identified in this subparagraph shall not be included in the home school's grade but shall be included only in the calculation of the alternative school's grade. A school district that fails to assign statewide, standardized end-of-course assessment scores of each of its students to his or her home school or to the alternative school that receives a grade shall forfeit Florida School Recognition Program funds for one fiscal year. School districts must require collaboration between the home school and the alternative school in order to promote student success. This collaboration must include an annual discussion between the principal of the alternative school and the principal of each student's home school concerning the most appropriate school assignment of the student.

2. Student performance data for students designated as hospital or homebound shall be assigned to their home school for the purposes of school grades. As used in this subparagraph, the term "home school" means the school to which a student would be assigned if the student were not assigned to a hospital or



890458

homebound program.

3. A high school must include a student in its graduation rate if the student transfers from the high school to a private school with which the school district has a contractual relationship.

Section 8. Subsection (3) of section 1008.341, Florida Statutes, is amended to read:

1008.341 School improvement rating for alternative schools.—

(3) DESIGNATION OF SCHOOL IMPROVEMENT RATING.—Student Learning Gains based on statewide, standardized assessments, including retakes, administered under s. 1008.22 for all eligible students who were assigned to and enrolled in the school during the October or February FTE count and who have assessment scores, concordant scores, or comparable scores for the preceding school year shall be used in determining an alternative school's school improvement rating. An alternative school's rating shall be based on the following components:

(a) The percentage of eligible students who make Learning Gains in English Language Arts as measured by statewide, standardized assessments under s. 1008.22(3).

(b) The percentage of eligible students who make Learning Gains in mathematics as measured by statewide, standardized assessments under s. 1008.22(3).

Student performance results of students who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who



890458

are in programs operated or contracted by the Department of Juvenile Justice may not be included in an alternative school's school improvement rating.

Section 9. Paragraph (i) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(i) *Calculation of full-time equivalent membership with respect to dual enrollment instruction.*—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value shall be subject to the provisions in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of



890458

full-time equivalent enrollments they generate for a Florida College System institution or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university, ~~which is located and chartered in Florida,~~ is not for profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education ~~the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools,~~ and confers degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees. No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

Section 10. Subsection (5) is added to section 1011.69,



890458

Florida Statutes, to read:

1011.69 Equity in School-Level Funding Act.—

(5) To help meet the academic needs of economically disadvantaged students, school districts shall provide Title I funds directly to all eligible schools as provided in this subsection. For purposes of this subsection, the term "eligible school" means a school, including a charter school, that is eligible to receive Title I funds. The threshold for identifying eligible schools shall not exceed the statewide percentage of economically disadvantaged students.

(a) Before the allocation of Title I funds to eligible schools, a school district may withhold funds only as follows:

1. One percent for parent involvement;
2. A necessary and reasonable amount for administration,
not to exceed 8 percent; and

3. A reasonable and necessary amount to provide:

a. Homeless programs;
b. Delinquent and neglected programs; and
c. Private school equitable services.

(b) All remaining Title I funds shall be distributed to all eligible schools in accordance with federal law and regulations. An eligible school may use funds received under this subsection to participate in discretionary educational services provided by the school district.

Section 11. This act shall take effect July 1, 2017.

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

And the title is amended as follows:

Delete everything before the enacting clause



890458

and insert:

A bill to be entitled

An act relating to K-12 education; amending s.
1002.33, F.S.; revising the charter school application
process; revising the appeals process for a denied
charter school application; requiring the use of the
standard charter contract by specified entities;
revising eligibility requirements for charter school
students enrolled in blended learning courses;
authorizing a charter school to be exempt from
provisions relating to controlled open enrollment
under certain circumstances; clarifying provisions
relating to charter schools and tort liability;
revising the purpose of charter school cooperatives;
authorizing the use of unrestricted net assets and
certain unrestricted surplus for specified charter
schools; requiring such funds to be used in accordance
with specified provisions; authorizing certain
entities to share facilities with charter schools
without additional approval; revising the
administrative fees that a district may withhold from
charter schools; requiring charter schools to complete
and submit an annual survey; revising the public
information disclosures of charter schools; deleting a
requirement that the Department of Education compare
certain data; revising eligibility criteria for
designated local educational agency status;
authorizing the governing board of a charter school
system to be designated a local educational agency for



890458

1258 certain schools; amending s. 1002.3305, F.S.; revising
1259 the definition for the term "eligible student" for
1260 purposes of the College-preparatory Boarding Academy
1261 Pilot Program; amending s. 1002.331, F.S.; conforming
1262 provisions to changes made by the act; authorizing a
1263 high-performing charter school to establish more than
1264 one charter school in any year under certain
1265 circumstances; amending s. 1002.332, F.S.; authorizing
1266 a high-performing charter school system to replicate
1267 its schools in any school district and providing
1268 application requirements therefor; amending s.
1269 1003.498, F.S.; revising eligibility requirements for
1270 students enrolled in blended learning courses;
1271 amending s. 1007.35, F.S.; revising the name of an ACT
1272 assessment for specified purposes; amending s.
1273 1008.34, F.S.; revising the student performance data
1274 to be included in school grades; amending s. 1008.341,
1275 F.S.; including concordant scores in the calculation
1276 of an alternative school's school improvement rating;
1277 amending s. 1011.62, F.S.; revising eligibility
1278 criteria for postsecondary institutions to participate
1279 in the dual enrollment and early admission programs;
1280 amending s. 1011.69, F.S.; requiring school districts
1281 to provide specified funds directly to schools
1282 eligible to receive Title I funds; providing a
1283 definition; authorizing school districts to withhold
1284 certain funds for specified purposes; authorizing
1285 eligible schools to use funds to participate in
1286 certain services; providing an effective date.



449368

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Montford) recommended the following:

1 **Senate Amendment to Amendment (890458) (with title**
2 **amendment)**

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4 Delete lines 1199 - 1223.

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

7 And the title is amended as follows:

8 Delete lines 1280 - 1286

9 and insert:



449368

10 providing an effective date.



497682

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment to Amendment (890458) (with directory and title amendments)

Delete lines 862 - 892.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 10 - 11

and insert:

(20), paragraphs (a) and (b) of subsection (21), and subsection



497682

11 (28) of section 1002.33, Florida Statutes, are amended
12
13 ===== T I T L E A M E N D M E N T =====
14 And the title is amended as follows:
15 Delete lines 1254 - 1258
16 and insert:
17 certain data; amending s. 1002.3305, F.S.; revising



332576

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment to Amendment (890458) (with directory and title amendments)

Delete lines 673 - 683.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 9

and insert:

subsection (17), subsection



332576

11
12 ===== T I T L E A M E N D M E N T =====
13 And the title is amended as follows:
14 Delete lines 1246 - 1248
15 and insert:
16 with specified provisions; revising the



469268

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment to Amendment (890458) (with title amendment)

Between lines 816 and 817
insert:

(e) Each school district shall annually complete a report, provided in a format specified by the Department of Education, to indicate the number of students that have enrolled in a traditional public school after attending a charter school, to identify the academic status of such students, and to report on



469268

the reason why the students left the charter school, if that
information is available. The districts shall compile the
information in a way that maintains the confidentiality of the
students. The department shall compile the results by district
and include them in the report required under sub-sub-
subparagraph (5) (b) 1.k. (III) .

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

And the title is amended as follows:

Delete line 1251

and insert:

and submit an annual survey; requiring school
districts to annually report to the Department of
Education certain information on former charter school
students who have enrolled in a traditional public
school; revising the public



164028

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment to Amendment (890458)

Delete lines 309 - 317
and insert:
approved with the application. The major issues involving the
operation of a charter school shall be considered in advance and
written into the charter. The charter shall be signed by the

By the Committee on Education; and Senator Broxson

581-03949-17

20171362c1

1 A bill to be entitled
 2 An act relating to K-12 education; amending s.
 3 1002.33, F.S.; removing a requirement that the
 4 Department of Education compare certain charter school
 5 student performance data to certain traditional public
 6 schools; removing notice requirements relating to such
 7 charter school performance data; removing a
 8 requirement that the State Board of Education adopt
 9 rules to administer such notice requirements; creating
 10 s. 1002.334, F.S.; defining terms; authorizing certain
 11 entities to apply to the State Board of Education for
 12 designation as a High-Impact Charter Network;
 13 requiring the state board to adopt rules; providing
 14 criteria for an initial and renewal designation;
 15 providing the period during which an initial
 16 designation is valid; authorizing entities designated
 17 as High-Impact Charter Networks to establish and
 18 operate charter schools under certain circumstances;
 19 authorizing entities with the designation to submit an
 20 application to establish and operate charter schools;
 21 providing that charter schools operated by designated
 22 entities are eligible to receive charter school
 23 capital outlay; requiring the department to give
 24 priority to certain charter schools applying for
 25 specified grants; requiring the governing board of an
 26 entity designated as a High-Impact Charter Network to
 27 be considered a local educational agency for receiving
 28 federal funds, under certain conditions; providing for
 29 rulemaking; amending s. 1007.35, F.S.; revising the

Page 1 of 9

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

581-03949-17

20171362c1

30 exams each public high school is required to
 31 administer to all enrolled 10th grade students to
 32 include the PreACT, rather than the ACT Aspire;
 33 amending s. 1008.34, F.S.; clarifying accountability
 34 requirements for collocated schools; providing an
 35 effective date.

36
 37 Be It Enacted by the Legislature of the State of Florida:

38
 39 Section 1. Paragraph (b) of subsection (21) of section
 40 1002.33, Florida Statutes, is amended to read:

41 1002.33 Charter schools.—

42 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

43 (b)1. The Department of Education shall report to each
 44 charter school receiving a school grade pursuant to s. 1008.34
 45 or a school improvement rating pursuant to s. 1008.341 the
 46 school's student assessment data.

47 2. The charter school shall report the information in
 48 subparagraph 1. to each parent of a student at the charter
 49 school, the parent of a child on a waiting list for the charter
 50 school, the district in which the charter school is located, and
 51 the governing board of the charter school. This paragraph does
 52 not abrogate the provisions of s. 1002.22, relating to student
 53 records, or the requirements of 20 U.S.C. s. 1232g, the Family
 54 Educational Rights and Privacy Act.

55 ~~3.a. Pursuant to this paragraph, the Department of~~
 56 ~~Education shall compare the charter school student performance~~
 57 ~~data for each charter school in subparagraph 1. with the student~~
 58 ~~performance data in traditional public schools in the district~~

Page 2 of 9

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

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~~in which the charter school is located and other charter schools in the state. For alternative charter schools, the department shall compare the student performance data described in this paragraph with all alternative schools in the state. The comparative data shall be provided by the following grade groupings:~~

~~(I) Grades 3 through 5;~~

~~(II) Grades 6 through 8; and~~

~~(III) Grades 9 through 11.~~

~~b. Each charter school shall provide the information specified in this paragraph on its Internet website and also provide notice to the public at large in a manner provided by the rules of the State Board of Education. The State Board of Education shall adopt rules to administer the notice requirements of this subparagraph pursuant to ss. 120.536(1) and 120.54. The website shall include, through links or actual content, other information related to school performance.~~

Section 2. Section 1002.334, Florida Statutes, is created to read:

1002.334 High-Impact Charter Network.—

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

(a) "Critical need area" means an area that is served by one or more nonalternative, traditional public schools that received a school grade of "D" or "F" pursuant to s. 1008.34 in 4 of the last 5 years or whose school district is required to implement a turnaround option pursuant to s. 1008.33(4) (b).

(b) "Entity" means a nonprofit organization with tax-exempt status under s. 501(c) (3) of the Internal Revenue Code which is authorized by law to operate a public charter school.

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(2) An entity that successfully operates a system of charter schools which primarily serves educationally disadvantaged students who are eligible for free or reduced-price school lunches under the National School Lunch Act may apply to the State Board of Education for designation as a High-Impact Charter Network. The state board shall adopt rules prescribing a review process for determining whether the entity meets the requirements for the designation as a High-Impact Charter Network under this section. The review process:

(a) Must include student demographic information and a review of all schools currently and previously operated by the entity, including school-level financial performances and schoolwide and subgroup performance on all statewide assessments for the most recent 3 years as compared to all students in other schools at the same grade level and as compared with other schools serving similar demographics of students.

(b) May include student performance on nationally norm-referenced tests, attendance and retention rates, graduation rates, college attendance rates, college persistence rates, and other outcome measures as determined by the state board.

(3) The initial High-Impact Charter Network status designation is valid for up to 4 years. If an entity seeks status renewal, the state board shall review the academic and financial performance of the charter schools established in critical need areas consistent with the process described in subsection (2).

(4) An entity that is designated as a High-Impact Charter Network pursuant to this section may submit an application to a district school board pursuant to s. 1002.33 to establish and

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operate charter schools in critical need areas or, under s. 1008.33(4)(b)3., charter schools as turnaround options for schools that earn a grade of "F" in the school district. Notwithstanding s. 1013.62(1)(a), a charter school operated by a High-Impact Charter Network in a critical need area is eligible to receive charter school capital outlay.

(5) The department shall give priority to charter schools operated by a High-Impact Charter Network in the department's Florida Public Charter Schools Grant Program competitions. Such priority treatment may be provided only for a new charter school that will operate in a critical need area.

(6) Notwithstanding the criteria in s. 1002.33(25), the governing board of an entity designated as a High-Impact Charter Network shall be designated as a local educational agency for the purposes of receiving federal funds if the governing board has adopted and filed a resolution with its sponsoring district school board and the department. The resolution must contain provisions indicating that the governing board accepts the full responsibility for all local educational agency requirements and that the charter schools for which the governing board will perform local education agency responsibilities are all located in the same county.

(7) The State Board of Education shall adopt rules to administer this section.

Section 3. Subsection (5), paragraph (j) of subsection (6), and paragraph (a) of subsection (8) of section 1007.35, Florida Statutes, are amended to read:

1007.35 Florida Partnership for Minority and Underrepresented Student Achievement.—

581-03949-17 20171362c1

(5) Each public high school, including, but not limited to, schools and alternative sites and centers of the Department of Juvenile Justice, shall provide for the administration of the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), or the PreACT ~~Act Aspire~~ to all enrolled 10th grade students. However, a written notice shall be provided to each parent which must ~~that shall~~ include the opportunity to exempt his or her child from taking the PSAT/NMSQT or the PreACT ~~ACT Aspire~~.

(a) Test results will provide each high school with a database of student assessment data which certified school counselors will use to identify students who are prepared or who need additional work to be prepared to enroll and be successful in AP courses or other advanced high school courses.

(b) Funding for the PSAT/NMSQT or the PreACT ~~ACT Aspire~~ for all 10th grade students shall be contingent upon annual funding in the General Appropriations Act.

(c) Public school districts must choose either the PSAT/NMSQT or the PreACT ~~ACT Aspire~~ for districtwide administration.

(6) The partnership shall:

(j) Provide information to students, parents, teachers, counselors, administrators, districts, Florida College System institutions, and state universities regarding PSAT/NMSQT or the PreACT ~~ACT Aspire~~ administration, including, but not limited to:

1. Test administration dates and times.

2. That participation in the PSAT/NMSQT or the PreACT ~~ACT Aspire~~ is open to all 10th grade students.

3. The value of such tests in providing diagnostic feedback

581-03949-17

20171362c1

on student skills.

4. The value of student scores in predicting the probability of success on AP or other advanced course examinations.

(8) (a) By September 30 of each year, the partnership shall submit to the department a report that contains an evaluation of the effectiveness of the delivered services and activities. Activities and services must be evaluated on their effectiveness at raising student achievement and increasing the number of AP or other advanced course examinations in low-performing middle and high schools. Other indicators that must be addressed in the evaluation report include the number of middle and high school teachers trained; the effectiveness of the training; measures of postsecondary readiness of the students affected by the program; levels of participation in the 10th grade PSAT/NMSQT or the PreACT ~~ACT-Aspire~~ testing; and measures of student, parent, and teacher awareness of and satisfaction with the services of the partnership.

Section 4. Paragraph (a) of subsection (3) of section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—

(3) DESIGNATION OF SCHOOL GRADES.—

(a) Each school must assess at least 95 percent of its eligible students, except as provided under s. 1008.341 for alternative schools. Each school shall receive a school grade based on the school's performance on the components listed in subparagraphs (b)1. and 2. If a school does not have at least 10 students with complete data for one or more of the components

581-03949-17

20171362c1

listed in subparagraphs (b)1. and 2., those components may not be used in calculating the school's grade.

1. An alternative school may choose to receive a school grade under this section or a school improvement rating under s. 1008.341. For charter schools that meet the definition of an alternative school pursuant to State Board of Education rule, the decision to receive a school grade is the decision of the charter school governing board.

2. A school that serves any combination of students in kindergarten through grade 3 that does not receive a school grade because its students are not tested and included in the school grading system shall receive the school grade designation of a K-3 feeder pattern school identified by the Department of Education and verified by the school district. A school feeder pattern exists if at least 60 percent of the students in the school serving a combination of students in kindergarten through grade 3 are scheduled to be assigned to the graded school.

3. If a collocated school does not earn a school grade or school improvement rating for the performance of its students, the student performance data of all schools operating at the same facility must be aggregated to develop a school grade, or a school improvement rating if all schools at the site are eligible for a school improvement rating and do not elect to be graded, which ~~that~~ will be assigned to all schools at that location. A collocated school is a school that has its own unique master school identification number, provides for the education of each of its enrolled students, and operates at the same facility as another school that has its own unique master school identification number and provides for the education of

581-03949-17

20171362c1

233 each of its enrolled students.

234 Section 5. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1372

INTRODUCER: Community Affairs Committee; Regulated Industries Committee; and Senator Perry

SUBJECT: Building-related Contracting

DATE: April 24, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	McSwain	RI	Fav/CS
2.	Present	Yeatman	CA	Fav/CS
3.	Davis	Hansen	AP	Pre-meeting
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1372 authorizes certified electrical contractors and alarm system contractors (certified contractors) to:

- Act as prime contractors on a project when the majority of the contracted work is within the scope of the certified contractor's license; or
- Subcontract to other licensed contractors any contracted work on a project that is outside the scope of the certified contractor's license.

The bill is similar to Part I of ch. 489, F.S., which authorizes prime contracting and subcontracting by construction contractors.

The bill also changes the process by which revisions are made to the Florida Building Code.

Current law requires the Florida Building Commission (commission) to revise the Florida Building Code every three years to automatically adopt the most recent versions of the International Code Council I-Codes (I-Codes) and the International Energy Conservation Code (IECC) into the foundation of the Florida Building Code. Additionally, under current law, amendments and modifications to the Florida Building Code only remain in effect until the effective date of a new edition of the Florida Building Code.

Under the new process, the commission must use the I-Codes, the National Electric Code (NFPA), or other nationally adopted model codes and standards for updates to the Florida Building Code. The commission must adopt an updated Florida Building Code every three years through reviews of the I-Codes, all of which are copyrighted and published by the International Code Council, and the National Electrical Code, which is copyrighted and published by the National Fire Protection Association.

However, the commission must adopt any provision from the I-Codes, the National Electrical Code, or any other code necessary to maintain eligibility for federal funding from the National Flood Insurance Program, the Federal Emergency Management Agency, and the United States Department of Housing and Urban Development and maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction. If amendments or modifications are made to the Florida Building Code, those amendments and modifications will be carried forward until the next edition of the Florida Building Code. The Florida Building Code updating process will remain on a three-year cycle.

In addition, the bill provides that a technical amendment to the Florida Building Code related to water conservation practices or design criteria adopted by a local government is not rendered void when the Florida Building Code is updated if the amendment is necessary to protect or provide for more efficient use of water resources as provided in s. 373.621, F.S. However, any such technical amendment carried forward into the next edition of the Florida Building Code is subject to review or modification.

The bill also requires the commission to adopt the Florida Building Code by a two-thirds vote of the members present. Furthermore, a technical advisory committee may favorably recommend a proposal to the commission with a two-thirds vote of the members present.

The bill has an insignificant fiscal impact to the Department of Business and Professional Regulation (DBPR), which can be handled with existing resources. *See* Section V. Fiscal Impact Statement.

II. Present Situation:

Construction Contracting

Chapter 489, F.S., dealing with construction contracting, provides for the regulation of contractors based on the type of contracting engaged in by the contractor. Part I of ch. 489, F.S., relating to construction contracting, addresses regulation of the construction industry.¹ Part II of ch. 489, F.S., deals with the licensing of electrical and alarm system contractors.²

The Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating the construction industry in this state.³ The CILB is divided into two divisions with separate jurisdictions:

¹ *See* ss. 489.101-489.146, F.S.

² *See* ss. 489.501-489.538, F.S. Part III, dealing with registration of septic tank contractors is not relevant to SB 1372; *see* ss. 489.551-489.558, F.S.

³ *See* s. 489.107, F.S.

- Division I is comprised of the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.⁴
- Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.⁵

A specialty contractor is one whose scope of work and responsibility is limited to a particular phase of construction as detailed in an administrative rule adopted by the CILB. Jurisdiction is dependent on the scope of work and whether Division I or Division II has jurisdiction over such work in accordance with the applicable administrative rule.⁶

The CILB is authorized to:

- Reprimand or place licensees on probation;
- Revoke, suspend, or deny the issuance or renewal of a certificate or registration;
- Require financial restitution to a consumer for financial harm directly related to a violation;
- Impose an administrative fine not to exceed \$10,000 per violation;
- Require continuing education; or
- Assess costs associated with investigation and prosecution.⁷

Electrical and Alarm System Contracting

Part II of ch. 489, F.S., dealing with electrical and alarm system contracting, sets forth requirements for qualified persons to be licensed if they have sufficient technical expertise in the applicable trade and have been tested on technical and business matters.⁸ The Electrical Contractors' Licensing Board (ECLB) in the DBPR implements part II of ch. 489, F.S.⁹ An alarm system is "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."¹⁰ An alarm system includes home-automation equipment, thermostats, and video cameras.¹¹

Electrical contractors and alarm system contractors are certified or registered under the ECLB. Certified contractors are those who can practice statewide and are licensed and regulated by the

⁴ See s. 489.107(4)(a), F.S.

⁵ See s. 489.107(4)(b), F.S.

⁶ See, for example, Fla. Admin. Code R. 61G4-15.032 (2016), dealing with the various types of pool/spa contractors.

⁷ See s. 489.129(1)(a) - (q), F.S., for the acts that may result in the imposition of discipline by the CILB.

⁸ See s. 489.501, F.S.

⁹ See ss. 489.507 through 489.517, F.S., concerning the powers and duties of the ECLB.

¹⁰ See s. 489.505(1), F.S.

¹¹ See s. 553.793(1)(b), F.S.

ECLB. Registered contractors are those licensed and regulated by a local jurisdiction and who may practice within that locality.¹²

Generally, an “electrical contractor” is a person who has the ability to work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits that generate, transmit, transform, or utilize electrical energy in any form.¹³ The scope of an electrical contractor’s license includes alarm system work.¹⁴

Generally, an “alarm system contractor” is a person who is able to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems.¹⁵ An “alarm system” is defined as “any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.”¹⁶

In order to become a certified electrical contractor or alarm system contractor, a person at least 18 years of age must submit an application to the DBPR and meet the following criteria:

- Be of good moral character;
- Pass the certification examination, achieving a passing grade as established by the ECLB rule; and
- Meet eligibility requirements according to one of the following criteria:
 - Three years of management experience or education equivalent thereto, not more than half of which may be an educational equivalent, within the last six years;
 - Four years of supervisory experience within the last eight years;
 - Six years of training, education, or supervisory experience within the last 12 years;
 - any combination of qualifications under the three previous options totaling six years within the last 12 years; or
 - Three years as a professional electrical engineer within the last 12 years.¹⁷

Electrical contractors and alarm system contractors are only permitted to perform contracting within their scope of practice. Contracting includes the attempted sale of contracting services and the negotiation or bid for a contract on these services.¹⁸

Electrical contractors are specifically permitted to contract for certain work outside the scope of licensure, limited to excavation, paving, related incidental work, and the work of specialty electrical contractors, provided the electrical contractor properly subcontracts all work outside the scope of her or his licensure.¹⁹ There are no similar statutory provisions for alarm system contractors.

¹² See generally s. 489.505, F.S.

¹³ See s. 489.505(12), F.S.

¹⁴ See s. 489.537(7), F.S.

¹⁵ See s. 489.505(2), F.S.

¹⁶ See s. 489.505(1), F.S.

¹⁷ See s. 489.511(1)(a) and (b), F.S.

¹⁸ See generally s. 489.505, F.S.

¹⁹ See s. 489.537(2)(a), F.S.

The DBPR may also issue geographically unlimited certificates of competency to an alarm system contractor (certificateholder).²⁰ The scope of certification is limited to specific alarm circuits and equipment.²¹ No mandatory licensure requirement is created by the availability of a certification.²²

Authority to Act as Prime Contractor or to Subcontract Work

Under s. 489.113(9)(a), F.S., no provision in part I of ch. 489, F.S., prevents any contractor from acting as a prime contractor²³ where the majority of the work to be performed under the contract is within the scope of his or her license or from subcontracting to other licensed contractors work that is part of the project. Currently, the ECLB and DBPR read Florida law regulating the CILB contractors and the ECLB contractors in conjunction with each other.²⁴ As such, authority granted to “contractors” to act as prime contractor has been interpreted to also apply to electrical contractors and alarm system contractors.²⁵

The Florida Building Code and the Florida Building Commission

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public’s health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state’s role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.²⁶

In 1996, a study commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission’s recommendations for a single state building code and an enhanced oversight role for the state in local code enforcement. The 2000 Legislature authorized

²⁰ See ss. 489.505(4), 489.505(5), and 489.515(1), F.S.

²¹ Section 489.505(7), F.S., describes the limitations on the scope of a certificate of competency as those circuits originating in alarm control panels, equipment governed by the Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, as well as the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks. RMS is the abbreviation for “root mean square,” a statistical term defined as the square root of mean square. See <http://www.practicalphysics.org/explaining-rms-voltage-and-current.html> (last visited Apr. 11, 2017).

²² *Id.*

²³ A “prime contractor” is a contractor who has contracted with an owner of a project and has full responsibility for its completion; a prime contractor agrees to perform a complete contract, and may employ (and manage) one or more subcontractors to carry out specific parts of the contract. See <http://www.businessdictionary.com/definition/prime-contractor.html> (last visited Apr. 11, 2017).

²⁴ “The doctrine of *in pari materia* is a principle of statutory construction that requires that statutes relating to the same subject or object be construed together to harmonize the statutes and to give effect to the Legislature’s intent.” *Fla. Dep’t of State v. Martin*, 916 So. 2d 763, 768 (Fla. 2005).

²⁵ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for HB 227 (identical to SB 1372), dated Feb. 15, 2017 (on file with Senate Committee on Regulated Industries) at page 2.

²⁶ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 18, 2017).

implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002. In 2004, for the second edition of the Florida Building Code, the state adopted the International Code Council I-Codes (I-Codes).²⁷ All subsequent Florida Building Codes have been adopted utilizing the I-Codes as the base code. The most recent Florida Building Code is the fifth edition, which is referred to as the 2014 Florida Building Code. The 2014 Florida Building Code went into effect June 30, 2015.²⁸

The commission was statutorily created to implement the Florida Building Code. The commission, which is housed within the DBPR, is a 27-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code. The commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the Florida Building Code.²⁹

Most substantive issues before the commission are vetted through a workgroup process. Consensus recommendations are developed and submitted by appointed representative stakeholder groups in an open process with several opportunities for public input.

According to the commission,

General consensus is a participatory process whereby, on matters of substance, the members strive for agreements which all of the members can accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on substantive decisions, and the Commission finds that 100 percent acceptance or support is not achievable, final decisions require at least 75 percent favorable vote of all members present and voting.³⁰

Building Code Cycle

Under s. 553.73(7)(a), F.S., the commission must update the Florida Building Code every three years. When updating the Florida Building Code, the commission is required to use the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, the International Residential Code, and the International Electrical Code. These I-Codes form the foundation codes of the updated Florida Building Code.

²⁷ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” The ICC publishes I-Codes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All 50 states have adopted the I-Codes.

²⁸ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 18, 2017).

²⁹ Section 553.74, F.S.

³⁰ Florida Building Commission, Florida Building Commission Consensus-Building Process, *available at* http://www.floridabuilding.org/fbc/commission/FBC_0608/Commission/FBC_Discussion_and_Public_Input_Processes.htm (last visited Jan. 18, 2017).

Any amendments or modifications to the foundation codes found within the Florida Building Code remain in effect only until the effective date of a new edition of the Florida Building Code, every three years.³¹ At that point, the amendments or modifications to the foundation codes are removed, unless the amendments or modifications are related to state agency regulations or are related to the wind-resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties, which are carried forward into the next edition of the Florida Building Code.

When a provision of the current Florida Building Code is not part of the foundation codes, an industry member or another interested party must resubmit the provision to the commission during the Florida Building Code adoption process in order to be considered for the next edition of the Florida Building Code.³²

Amendments between Cycles

Section 553.73(8), F.S., authorizes the commission to approve amendments pursuant to the rule adoptions procedure in ch. 120, F.S., which are needed to address:

- Conflicts within the updated Florida Building Code;
- Conflicts between the updated Florida Building Code and the Florida Fire Prevention Code adopted pursuant to ch. 633, F.S.;
- Unintended results from the integration of the previously adopted Florida-specific amendments;
- Equivalency of standards;
- Changes to or inconsistencies with federal or state law; or
- Adoption of an updated edition of the National Electrical Code if the commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

However, the commission may not approve amendments that would weaken the construction requirements relating to wind resistance or the prevention of water intrusion.

The commission may also approve technical amendments to the Florida Building Code once a year for statewide or regional application if the amendment:³³

- Is needed in order to accommodate the specific needs of Florida.
- Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
- Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
- Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.
- Does not degrade the effectiveness of the Florida Building Code.

³¹ Section 553.73(7)(g), F.S.

³² Section 553.73(7)(g), F.S.

³³ Section 553.73(9), F.S.

The 6th Edition of the Florida Building Code

The commission is currently conducting its rule development process for the 6th Edition of the Florida Building Code. Under s. 553.73(7)(e), F.S., a rule updating the Florida Building Code does not take effect until six months after the publication of the updated Florida Building Code. The 6th Edition of the Florida Building Code is tentatively expected to go into effect on December 31, 2017.³⁴

The 6th Edition of the Florida Building Code will incorporate the latest version of the I-Codes (2015). The next edition of the I-Codes will be the 2018 I-Codes.

Voting Processes for the Technical Advisory Committees and the Commission

Under s. 553.73(3)(b), F.S., in order for a technical advisory committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the meeting, and at least half of the regular members must be present in order to conduct the meeting.

The Florida Administrative Code, under 61G20-2.002(7), F.A.C., provides a similar requirement for votes taken by the commission. Specifically, the provision provides that “the decision of the commission to approve a proposed amendment shall be by 75 percent vote. Those proposals failing to meet the vote requirement shall not be adopted.”

III. Effect of Proposed Changes:

Section 1 amends s. 489.516, F.S., to provide that no provision in part II, ch. 489, dealing with electrical contracting and alarm system contracting, may prevent certified electrical contractors and alarm system contractors (certified contractors) from:

- Acting as prime contractors on a project when the majority of the contracted work is within the scope of the certified contractor’s license; or
- Subcontracting to other licensed contractors any contracted work on a project that is outside the scope of the certified contractor’s license.

This provision does not apply to registered electrical and alarm system contractors.

Section 489.113(9)(a), F.S., under part I of ch. 489, F.S., includes a similar provision that applies to all construction contractors, whether certified or registered. The Department of Business and Professional Regulation (DBPR) and the Construction Industry Licensing Board (CILB) have applied s. 489.113(9)(a), F.S., to electrical and alarm system licensees regulated under part II of ch. 489, F.S.³⁵

³⁴ 6th Edition (2017) FBC Code Update Development Tasks, *available at* http://www.floridabuilding.org/fbc/thecode/2017_Code_Development/Timelines/FBC_WorkplanOption1-2015.pdf (Last visited Jan. 18, 2017).

³⁵ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for HB 227 (identical to SB 1372), dated Feb. 15, 2017 (on file with Senate Committee on Regulated Industries) at page 2.

Section 2 amends s. 553.73, F.S., to require the Florida Building Commission (commission) to use the International Code Council, the National Electric Code (NFPA), or other nationally adopted model codes and standards for updates to the Florida Building Code. The commission must adopt an updated Florida Building Code every three years through reviews of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are copyrighted and published by the International Code Council, and the National Electrical Code, which is copyrighted and published by the National Fire Protection Association. At a minimum, the commission must adopt any provision from the International Code Council I-Codes (I-Codes), the National Electric Code, or any other code that is necessary to maintain eligibility for federal funding from the National Flood Insurance Program, the Federal Emergency Management Agency, and the United States Department of Housing and Urban Development. The commission must also review and adopted updates based substantially on the International Energy Conservation Code; however, the commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction pursuant to s. 553.901, F.S. The commission shall adopt updated codes by rule.

Amendments and modifications, other than local amendments under s. 553.73(4), F.S., to the Florida Building Code, will now remain effective when a new edition of the Florida Building Code is published.

In order for a technical advisory committee to make a favorable recommendation to the commission, the proposal must receive a two-thirds vote of the members present at the meeting. Current law requires a three-fourths vote of the members present at the meeting.

The bill also provides that a technical amendment to the Florida Building Code related to water conservation practices or design criteria adopted by a local government is not rendered void when the Florida Building Code is updated if the amendment is necessary to protect or provide for more efficient use of water resources as provided in s. 373.621, F.S. However, any such technical amendment carried forward into the next edition of the Florida Building Code is subject to review or modification.

The bill removes references to Florida-specific amendments because the entire building code will now be Florida-specific. The bill also makes other conforming and clarifying changes in terminology.

Section 3 amends s. 553.76, F.S., to require the commission to adopt the Florida Building Code, and amendments thereto, by a two-thirds vote of the members present.

Section 4 provides for an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill has an indeterminate fiscal impact. The bill specifically permits certified electrical and alarm system contractors to act as prime contractors and to subcontract work when the majority of the work is in the scope of their license. This codifies the current administrative interpretation by the Department of Business and Professional Regulation (DBPR) and the Construction Industry Licensing Board (CILB) and the Electrical Contractors' Licensing Board (ECLB) of the applicability of s. 489.113(9)(a), F.S., to such certified contractors. This authorization may benefit affected certified electrical and alarm system contractors burdened with higher insurance rates due to the uncertainty created by the administrative interpretation by the DBPR and the CILB and the ECLB.

In addition, the bill will prevent registered electrical and alarm contractors to act as a prime contractor, which had been allowed under the current administrative interpretation by the DBPR, the CILB and the ECLB. According to the DBPR, this change will prevent registered electrical and alarm contractors from bidding on jobs that include some work outside the scope of their licenses.³⁶ Also, this could lead to more complaints/disciplinary actions against these registered contractors for contracting outside the scope of their license.³⁷

Builders and building code officials may benefit from the increased continuity of the Florida Building Code and increased transparency of the updated code adoption process.

C. Government Sector Impact:

The DBPR notes that the portions of the bill relating to certified electrical contractors and certified alarm system contractors have no fiscal impact on state government.³⁸

³⁶ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for CS/HB 2), dated Mar. 7, 2017 (on file with Senate Appropriations Subcommittee on General Government) at page 5.

³⁷ *Id.* at page 5.

³⁸ *Id.* at page 3.

The Florida Building Commission (commission) will have to review each change to the International Code Council I-Codes (I-Codes) and the International Energy Conservation Code (IECC) individually rather than approving wholesale changes to the Florida Building Code. However, the DBPR stated the changes in the bill relating to the revised Florida Building Code adoption process could be accomplished with current resources.³⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 489.516, 553.73, and 553.76.

IX. Additional Information:

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

CS/CS by Community Affairs on April 17, 2017:

- Revises the process by which the Florida Building Code will be adopted such that the commission shall use the I-Codes, the National Electric Code, or other nationally adopted model codes and standards for updates to the Code and shall review the most current updates of such codes;
- Requires the commission to adopt any provision from the I-Codes, the National Electrical Code, or any other code necessary to maintain eligibility for federal funding from the National Flood Insurance Program, the Federal Emergency Management Agency, and the United States Department of Housing and Urban Development;
- Provides that a technical advisory committee must receive a two-thirds vote, rather than a three-fourths vote, of the members present at the meeting in order to make a favorable recommendation to the commission;
- Provides that a technical amendment to the Florida Building Code related to water conservation practices or design criteria adopted by a local government is not rendered void when the Florida Building Code is updated if the amendment is necessary to protect or provide for more efficient use of water resources. However, any carried forward technical amendment is subject to review or modification under certain circumstances; and

³⁹ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SPB 7000, dated January 23, 2017 at page 5.

- Requires the commission to adopt the Florida Building Code by a two-thirds vote of the members present.

CS by Regulated Industries on April 4, 2017:

- Authorizes electrical and alarm systems contractors to act as prime contractors and subcontractors, consistent with a similar provision in part I of ch. 489, F.S., authorizing such activities by construction contractors.

B. Amendments:

None.



586648

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 39 and 40

insert:

Section 1. Section 468.603, Florida Statutes, is reordered and amended to read:

468.603 Definitions.—As used in this part:

(2)~~(1)~~ "Building code administrator" or "building official" means any of those employees of municipal or county governments, or any person contracted, with building construction regulation



586648

responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance. This term is synonymous with "building official" as used in the ~~administrative chapter of the Standard Building Code and the South Florida Building Code~~. One person employed or contracted by each municipal or county government as a building code administrator or building official and who is so certified under this part may be authorized to perform any plan review or inspection for which certification is required by this part, including performing any plan review or inspection as a currently designated standard certified building official under an interagency service agreement with a jurisdiction having a population of 50,000 or less.

(4)-(2) "Building code inspector" means any of those employees of local governments or state agencies, or any person contracted, with building construction regulation responsibilities who themselves conduct inspections of building construction, erection, repair, addition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance.

(1)-(3) "Board" means the Florida Building Code



586648

Administrators and Inspectors Board.

(7)~~(4)~~ "Department" means the Department of Business and Professional Regulation.

(6)~~(5)~~ "Certificate" means a certificate of qualification issued by the department as provided in this part.

(5)~~(6)~~ "Categories of building code inspectors" include the following:

(a) "Building inspector" means a person who is qualified to inspect and determine that buildings and structures are constructed in accordance with the provisions of the governing building codes and state accessibility laws.

(b) "Coastal construction inspector" means a person who is qualified to inspect and determine that buildings and structures are constructed to resist near-hurricane and hurricane velocity winds in accordance with the provisions of the governing building code.

(c) "Commercial electrical inspector" means a person who is qualified to inspect and determine the electrical safety of commercial buildings and structures by inspecting for compliance with the provisions of the National Electrical Code.

(h)~~(d)~~ "Residential electrical inspector" means a person who is qualified to inspect and determine the electrical safety of one and two family dwellings and accessory structures by inspecting for compliance with the applicable provisions of the governing electrical code.

(e) "Mechanical inspector" means a person who is qualified to inspect and determine that the mechanical installations and systems for buildings and structures are in compliance with the provisions of the governing mechanical code.



586648

69 (g)~~(f)~~ "Plumbing inspector" means a person who is qualified
70 to inspect and determine that the plumbing installations and
71 systems for buildings and structures are in compliance with the
72 provisions of the governing plumbing code.

73 (f)~~(g)~~ "One and two family dwelling inspector" means a
74 person who is qualified to inspect and determine that one and
75 two family dwellings and accessory structures are constructed in
76 accordance with the provisions of the governing building,
77 plumbing, mechanical, accessibility, and electrical codes.

78 (d)~~(h)~~ "Electrical inspector" means a person who is
79 qualified to inspect and determine the electrical safety of
80 commercial and residential buildings and accessory structures by
81 inspecting for compliance with the provisions of the National
82 Electrical Code.

83 (8)~~(7)~~ "Plans examiner" means a person who is qualified to
84 determine that plans submitted for purposes of obtaining
85 building and other permits comply with the applicable building,
86 plumbing, mechanical, electrical, gas, fire prevention, energy,
87 accessibility, and other applicable construction codes. The term
88 includes a residential plans examiner who is qualified to
89 determine that plans submitted for purposes of obtaining
90 building and other permits comply with the applicable
91 residential building, plumbing, mechanical, electrical, gas,
92 energy, accessibility, and other applicable construction codes.

93 Categories of plans examiners include:

- 94 (a) Building plans examiner.
- 95 (b) Plumbing plans examiner.
- 96 (c) Mechanical plans examiner.
- 97 (d) Electrical plans examiner.



586648

98 (3)~~(8)~~ "Building code enforcement official" or "enforcement
99 official" means a licensed building code administrator, building
100 code inspector, or plans examiner.

101 Section 2. Paragraph (c) of subsection (2), paragraphs (a)
102 and (d) of subsection (7), and subsection (10) of section
103 468.609, Florida Statutes, are amended to read:

104 468.609 Administration of this part; standards for
105 certification; additional categories of certification.—

106 (2) A person may take the examination for certification as
107 a building code inspector or plans examiner pursuant to this
108 part if the person:

109 (c) Meets eligibility requirements according to one of the
110 following criteria:

111 1. Demonstrates 5 years' combined experience in the field
112 of construction or a related field, building code inspection, or
113 plans review corresponding to the certification category sought;

114 2. Demonstrates a combination of postsecondary education in
115 the field of construction or a related field and experience
116 which totals 4 years, with at least 1 year of such total being
117 experience in construction, building code inspection, or plans
118 review;

119 3. Demonstrates a combination of technical education in the
120 field of construction or a related field and experience which
121 totals 4 years, with at least 1 year of such total being
122 experience in construction, building code inspection, or plans
123 review;

124 4. Currently holds a standard certificate issued by the
125 board or a firesafety inspector license issued pursuant to
126 chapter 633, has a minimum of 3 years' verifiable full-time



586648

experience in inspection or plan review, and has satisfactorily completed a building code inspector or plans examiner training program that provides at least 100 hours but not more than 200 hours of cross-training in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs. The board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program;

5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector certified under s. 633.216, or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program that provides at least 200 hours but not more than 300 hours of cross-training that is approved by the board in the chosen category of building code inspection or plan review in the certification category sought with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program. However, the board shall accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom



586648

component of the training program; ~~or~~

6. Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to chapter 633 and:

a. Has at least 5 years' verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of 5 years' verifiable full-time experience as a firesafety inspector licensed pursuant to chapter 633;~~or~~

b. Has satisfactorily completed a building code inspector or plans examiner classroom training course or program that provides at least 200 but not more than 300 hours in the certification category sought, except for one-family and two-family dwelling training programs, which must provide at least 500 but not more than 800 hours of training as prescribed by the board. The board shall establish by rule criteria for the development and implementation of classroom training courses and programs in each certification category; or

7.a. Has completed a 4-year internship certification program as a building code inspector or plans examiner while employed full-time by a municipality, county, or other governmental jurisdiction, under the direct supervision of a certified building official. Proof of graduation with a related vocational degree or college degree or of verifiable work experience may be exchanged for the internship experience requirement year-for-year, but may reduce the requirement to no less than 1 year;

b. Has passed an examination administered by the International Code Council in the certification category sought.



586648

Such examination must be passed before beginning the internship certification program;

c. Has passed the principles and practice examination before completing the internship certification program;

d. Has passed a board-approved 40-hour code training course in the certification category sought before completing the internship certification program; and

e. Has obtained a favorable recommendation from the supervising building official after completion of the internship certification program.

(7) (a) The board shall provide for the issuance of provisional certificates valid for 1 year, as specified by board rule, to any ~~newly employed or promoted~~ building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3). The provisional license may be renewed by the board for just cause; however, a provisional license is not valid for longer than 3 years.

(d) A ~~newly employed or hired~~ person may perform the duties of a plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted if such person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found such person qualified for a provisional certificate. Direct supervision and the determination of qualifications may also be provided by a building code administrator who holds a limited or provisional certificate in a county having a population of fewer than 75,000 and in a municipality located



586648

within such county.

(10) (a) The board may by rule create categories of certification in addition to those defined in s. 468.603(5) and (8) ~~468.603(6) and (7)~~. Such certification categories shall not be mandatory and shall not act to diminish the scope of any certificate created by statute.

(b) The board shall by rule establish:

1. Reciprocity of certification with any other state that requires an examination administered by the International Code Council.

2. An applicant for certification as a building code inspector or plans examiner may apply for a provisional certificate valid for the duration of the internship period.

3. Partial completion of an internship program may be transferred between jurisdictions on a form prescribed by the board.

4. An applicant may apply for a standard certificate on a form prescribed by the board upon successful completion of an internship certification program.

5. An applicant may apply for a standard certificate at least 30 days and no more than 60 days before completing the internship certification program.

6. A building code inspector or plans examiner who has standard certification may seek an additional certification in another category by completing an additional nonconcurrent 1-year internship program in the certification category sought and passing an examination administered by the International Code Council and a board-approved 40-hour code training course.

Section 3. Subsection (3) of section 468.617, Florida



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Statutes, is amended to read:

468.617 Joint building code inspection department; other arrangements.—

(3) Nothing in this part shall prohibit any county or municipal government, school board, community college board, state university, or state agency from entering into any contract with any person or entity for the provision of building code administrator, building official, or building code inspection services regulated under this part, and notwithstanding any other statutory provision, such county or municipal governments may enter into contracts.

Section 4. Paragraphs (d) and (i) of subsection (1) of section 553.791, Florida Statutes, are amended to read:

553.791 Alternative plans review and inspection.—

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

(d) "Building code inspection services" means those services described in s. 468.603(5) and (8) ~~468.603(6) and (7)~~ involving the review of building plans to determine compliance with applicable codes and those inspections required by law of each phase of construction for which permitting by a local enforcement agency is required to determine compliance with applicable codes.

(i) "Private provider" means a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private provider" also includes a person who holds a standard



586648

certificate under part XII of chapter 468.

Section 5. Subsection (10) of section 468.609, Florida Statutes, is amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(10) The board may by rule create categories of certification in addition to those defined in s. 468.603(5) and (8) ~~468.603(6) and (7)~~. Such certification categories shall not be mandatory and shall not act to diminish the scope of any certificate created by statute.

Section 6. Section 471.045, Florida Statutes, is amended to read:

471.045 Professional engineers performing building code inspector duties.—Notwithstanding any other provision of law, a person who is currently licensed under this chapter to practice as a professional engineer may provide building code inspection services described in s. 468.603(5) and (8) ~~468.603(6) and (7)~~ to a local government or state agency upon its request, without being certified by the Florida Building Code Administrators and Inspectors Board under part XII of chapter 468. When performing these building code inspection services, the professional engineer is subject to the disciplinary guidelines of this chapter and s. 468.621(1)(c)–(h). Any complaint processing, investigation, and discipline that arise out of a professional engineer's performing building code inspection services shall be conducted by the Board of Professional Engineers rather than the Florida Building Code Administrators and Inspectors Board. A professional engineer may not perform plans review as an employee of a local government upon any job that the



586648

professional engineer or the professional engineer's company
designed.

Section 7. Section 481.222, Florida Statutes, is amended to
read:

481.222 Architects performing building code inspection
services.—Notwithstanding any other provision of law, a person
who is currently licensed to practice as an architect under this
part may provide building code inspection services described in
s. 468.603(5) and (8) ~~468.603(6) and (7)~~ to a local government
or state agency upon its request, without being certified by the
Florida Building Code Administrators and Inspectors Board under
part XII of chapter 468. With respect to the performance of such
building code inspection services, the architect is subject to
the disciplinary guidelines of this part and s. 468.621(1)(c)–
(h). Any complaint processing, investigation, and discipline
that arise out of an architect's performance of building code
inspection services shall be conducted by the Board of
Architecture and Interior Design rather than the Florida
Building Code Administrators and Inspectors Board. An architect
may not perform plans review as an employee of a local
government upon any job that the architect or the architect's
company designed.

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

And the title is amended as follows:

Delete line 2

and insert:

An act relating to building-related contracting;
amending s. 468.603, F.S.; revising definitions;



586648

amending s. 468.609, F.S.; revising eligibility requirements for the examination for certification as a building code inspector or plans examiner to include an internship certification program; removing an eligibility condition from provisions related to provisional certificates; requiring the Florida Building Code Administrators and Inspectors Board to establish rules; amending s. 468.617, F.S.; authorizing specified entities to contract for the provision of building code administrator and building official services; amending s. 553.791, F.S.; conforming provisions to changes made by the act; revising a definition; amending ss. 468.609, 471.045, and 481.222, F.S.; conforming cross-references;



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 273 and 274
insert:

(20) The commission may not:

(a) Adopt the 2016 version of the American Society of
Heating, Refrigerating and Air-Conditioning Engineers Standard
90.1, s. 9.4.1.1(g).

(b) Adopt any provision that requires a door located in the
opening between a garage and a residence to be equipped with a



806082

11 self-closing device.
12
13 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====
14 And the directory clause is amended as follows:
15 Delete lines 53 - 54
16 and insert:
17 of that section, subsections (7) and (8) and paragraphs (a) and
18 (b) of subsection (9) of that section are amended, and
19 subsection (20) is added to that section, to read:
20
21 ===== T I T L E A M E N D M E N T =====
22 And the title is amended as follows:
23 Between lines 32 and 33
24 insert:
25 prohibiting the commission from adopting certain
26 provisions into the Florida Building Code;

By the Committees on Community Affairs; and Regulated Industries; and Senator Perry

578-03979-17

20171372c2

1 A bill to be entitled
 2 An act relating to building-related contracting;
 3 amending s. 489.516, F.S.; specifying that provisions
 4 regulating certified electrical contractors and
 5 certified alarm system contractors do not prevent such
 6 contractors from acting as a prime contractor or from
 7 subcontracting work to other licensed contractors
 8 under certain circumstances; amending s. 553.73, F.S.;
 9 requiring the Florida Building Commission to use
 10 certain entities and codes for updates to the Florida
 11 Building Code; revising voting requirements for a
 12 technical advisory committee to make a favorable
 13 recommendation to the commission; providing that
 14 certain technical amendments to the Florida Building
 15 Code which are adopted by a local government are not
 16 rendered void when the code is updated; specifying
 17 that such amendments are subject to review or
 18 modification if carried forward into the next edition
 19 of the code; requiring the commission to update the
 20 Florida Building Code through a review of the most
 21 current updates of specified codes; requiring the
 22 commission to adopt specified provisions from certain
 23 codes; deleting provisions limiting how long an
 24 amendment or modification is effective; deleting a
 25 provision requiring certain amendments or
 26 modifications to be carried forward into the next
 27 edition of the code, subject to certain conditions;
 28 deleting certain requirements for the resubmission of
 29 expired amendments; deleting a provision prohibiting a

Page 1 of 10

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

578-03979-17

20171372c2

30 proposed amendment from being included in the code if
 31 it has been addressed in the international code;
 32 conforming provisions to changes made by the act;
 33 amending s. 553.76, F.S.; requiring the commission to
 34 adopt the Florida Building Code, and amendments
 35 thereto, by a minimum percentage of votes; providing
 36 an effective date.
 37
 38 Be It Enacted by the Legislature of the State of Florida:
 39
 40 Section 1. Present subsection (5) of section 489.516,
 41 Florida Statutes, is renumbered as subsection (6), and a new
 42 subsection (5) is added to that section, to read:
 43 489.516 Qualifications to practice; restrictions;
 44 prerequisites.—
 45 (5) This part does not prevent any certified electrical or
 46 alarm system contractor from acting as a prime contractor where
 47 the majority of the work to be performed under the contract is
 48 within the scope of his or her license or from subcontracting to
 49 other licensed contractors that remaining work that is part of
 50 the project contracted.
 51 Section 2. Subsection (3) of section 553.73, Florida
 52 Statutes, is amended, paragraph (d) is added to subsection (4)
 53 of that section, and subsections (7) and (8) and paragraphs (a)
 54 and (b) of subsection (9) of that section are amended, to read:
 55 553.73 Florida Building Code.—
 56 (3) The commission shall use the ~~International Codes~~
 57 ~~published by the~~ International Code Council, the National
 58 Electric Code (NFPA 70), or other nationally adopted model codes

Page 2 of 10

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

578-03979-17

20171372c2

and standards ~~for updates to needed to develop the base code in~~
~~Florida to form the foundation for~~ the Florida Building Code.
 The ~~Florida Building~~ commission may approve technical amendments
 to the code as provided in, ~~subject to~~ subsections (8) and (9),
~~after the amendments have been~~ subject to all of the following
 conditions:

(a) The proposed amendment must have ~~has~~ been published on
 the commission's website for a minimum of 45 days and all the
 associated documentation must have ~~has~~ been made available to
 any interested party before ~~any~~ consideration by a technical
 advisory committee.

(b) In order for a technical advisory committee to make a
 favorable recommendation to the commission, the proposal must
 receive a two-thirds ~~three-fourths~~ vote of the members present
 at the ~~technical advisory committee meeting.~~ and At least half
 of the regular members must be present in order to conduct a
 meeting.

(c) After the technical advisory committee has considered
and recommended ~~consideration and a recommendation for~~ approval
 of any proposed amendment, the proposal must be published on the
 commission's website for at least 45 days before ~~any~~
 consideration by the commission.

(d) A proposal may be modified by the commission based on
 public testimony and evidence from a public hearing held in
 accordance with chapter 120.

The commission shall incorporate within ~~sections of~~ the Florida
 Building Code provisions that ~~which~~ address regional and local
 concerns and variations. The commission shall make every effort

578-03979-17

20171372c2

to minimize conflicts between the Florida Building Code, the
 Florida Fire Prevention Code, and the Life Safety Code.

(4)

(d) A technical amendment to the Florida Building Code
related to water conservation practices or design criteria
adopted by a local government pursuant to this subsection is not
rendered void when the code is updated if the technical
amendment is necessary to protect or provide for more efficient
use of water resources as provided in s. 373.621. However, any
such technical amendment carried forward into the next edition
of the code pursuant to this paragraph is subject to review or
modification as provided in this part.

(7) (a) The commission, ~~by rule adopted pursuant to ss.~~
~~120.536(1) and 120.54,~~ shall adopt an updated ~~update~~ the Florida
 Building Code every 3 years through review of. ~~when updating the~~
~~Florida Building Code, the commission shall select the most~~
 current updates ~~version~~ of the International Building Code, the
 International Fuel Gas Code, the International Mechanical Code,
 the International Plumbing Code, and the International
 Residential Code, all of which are copyrighted and published by
~~adopted~~ by the International Code Council, and the National
 Electrical Code, which is copyrighted and published ~~adopted~~ by
 the National Fire Protection Association. At a minimum, the
commission shall adopt any updates to such codes or any other
code necessary to maintain eligibility for federal funding from
the National Flood Insurance Program, the Federal Emergency
Management Agency, and the United States Department of Housing
and Urban Development, ~~to form the foundation codes of the~~
~~updated Florida Building Code, if the version has been adopted~~

578-03979-17

20171372c2

117 ~~by the applicable model code entity.~~ The commission shall also
 118 review and adopt updates based substantially on select the most
 119 ~~current version of the International Energy Conservation Code~~
 120 ~~(IECC) as a foundation code; however, the IECC shall be modified~~
 121 ~~by the commission shall to~~ maintain the efficiencies of the
 122 Florida Energy Efficiency Code for Building Construction adopted
 123 and amended pursuant to s. 553.901. The commission shall adopt
 124 updated codes by rule.

125 (b) Codes regarding noise contour lines shall be reviewed
 126 annually, and the most current federal guidelines shall be
 127 adopted.

128 (c) The commission may adopt as a technical amendment to
 129 the Florida Building Code ~~modify~~ any portion of the ~~foundation~~
 130 ~~codes identified in paragraph (a), but~~ only as needed to
 131 accommodate the specific needs of this state. Standards or
 132 criteria adopted from these ~~referenced by the~~ codes shall be
 133 incorporated by reference to the specific provisions adopted. If
 134 a referenced standard or criterion requires amplification or
 135 modification to be appropriate for use in this state, only the
 136 amplification or modification shall be set forth in the Florida
 137 Building Code. The commission may approve technical amendments
 138 to the updated Florida Building Code after the amendments have
 139 been subject to the conditions set forth in paragraphs (3)(a)-

140 (d). Amendments ~~that to the foundation codes which~~ are adopted
 141 in accordance with this subsection shall be clearly marked in
 142 printed versions of the Florida Building Code so that the fact
 143 that the provisions are ~~Florida-specific amendments to the~~
 144 ~~foundation codes~~ is readily apparent.

145 (d) The commission shall further consider the commission's

578-03979-17

20171372c2

146 own interpretations, declaratory statements, appellate
 147 decisions, and approved statewide and local technical amendments
 148 and shall incorporate such interpretations, statements,
 149 decisions, and amendments into the updated Florida Building Code
 150 only to the extent that they are needed to ~~modify the foundation~~
 151 ~~codes to~~ accommodate the specific needs of the state. A change
 152 made by an institute or standards organization to any standard
 153 or criterion that is adopted by reference in the Florida
 154 Building Code does not become effective statewide until it has
 155 been adopted by the commission. Furthermore, the edition of the
 156 Florida Building Code which is in effect on the date of
 157 application for any permit authorized by the code governs the
 158 permitted work for the life of the permit and any extension
 159 granted to the permit.

160 (e) A rule updating the Florida Building Code in accordance
 161 with this subsection shall take effect no sooner than 6 months
 162 after publication of the updated code. Any amendment to the
 163 Florida Building Code which is adopted upon a finding by the
 164 commission that the amendment is necessary to protect the public
 165 from immediate threat of harm takes effect immediately.

166 (f) Provisions of the Florida Building Code ~~foundation~~
 167 ~~codes~~, including those contained in referenced standards and
 168 criteria, relating to wind resistance or the prevention of water
 169 intrusion may not be modified to diminish those construction
 170 requirements; however, the commission may, subject to conditions
 171 in this subsection, modify the provisions to enhance those
 172 construction requirements.

173 ~~(g) Amendments or modifications to the foundation code~~
 174 ~~pursuant to this subsection shall remain effective only until~~

578-03979-17

20171372c2

the effective date of a new edition of the Florida Building Code every third year. Amendments or modifications related to state agency regulations which are adopted and integrated into an edition of the Florida Building Code shall be carried forward into the next edition of the code, subject to modification as provided in this part. Amendments or modifications related to the wind-resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties which are adopted to an edition of the Florida Building Code do not expire and shall be carried forward into the next edition of the code, subject to review or modification as provided in this part. If amendments that expire pursuant to this paragraph are resubmitted through the Florida Building Commission code adoption process, the amendments must specifically address whether:

1. The provisions contained in the proposed amendment are addressed in the applicable international code.

2. The amendment demonstrates by evidence or data that the geographical jurisdiction of Florida exhibits a need to strengthen the foundation code beyond the needs or regional variations addressed by the foundation code, and why the proposed amendment applies to this state.

3. The proposed amendment was submitted or attempted to be included in the foundation codes to avoid resubmission to the Florida Building Code amendment process.

If the proposed amendment has been addressed in the international code in a substantially equivalent manner, the Florida Building Commission may not include the proposed

578-03979-17

20171372c2

~~amendment in the foundation Code.~~

(8) Notwithstanding the ~~provisions of~~ subsection (3) or subsection (7), the commission may address issues identified in this subsection by amending the code pursuant only to the rule adoption procedures ~~contained~~ in chapter 120. ~~Provisions of The Florida Building Code, including provisions~~ those contained in referenced standards and criteria ~~which relate,~~ relating to wind resistance or the prevention of water intrusion, may not be amended pursuant to this subsection to diminish those standards ~~construction requirements~~; however, the commission may, ~~subject to conditions in this subsection,~~ amend the Florida Building Code the provisions to enhance such standards ~~those construction requirements~~. Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

(a) Conflicts within the updated code;

(b) Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;

(c) Unintended results from the integration of previously adopted ~~Florida-specific~~ amendments with the model code;

(d) Equivalency of standards;

(e) Changes to or inconsistencies with federal or state law; or

(f) Adoption of an updated edition of the National Electrical Code if the commission finds that delay of implementing the updated edition causes undue hardship to

578-03979-17 20171372c2

stakeholders or otherwise threatens the public health, safety, and welfare.

(9) (a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:

1. Is needed in order to accommodate the specific needs of this state.

2. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.

3. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.

4. Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.

5. Does not degrade the effectiveness of the Florida Building Code.

The Florida Building Commission may approve technical amendments to the code once each year to incorporate into the Florida Building Code its own interpretations of the code which are embodied in its opinions, final orders, declaratory statements, and interpretations of hearing officer panels under s. 553.775(3)(c), but only to the extent that the incorporation of interpretations is needed to modify the code ~~foundation codes~~ to accommodate the specific needs of this state. Amendments approved under this paragraph shall be adopted by rule after the amendments have been subjected to subsection (3).

578-03979-17 20171372c2

(b) A proposed amendment must include a fiscal impact statement that documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, and the impact to industry, relative to the cost of compliance. The amendment must demonstrate by evidence or data that the state's geographical jurisdiction exhibits a need to strengthen the ~~foundation~~ code beyond the needs or regional variations addressed by the ~~foundation~~ code and why the proposed amendment applies to this state.

Section 3. Subsection (2) of section 553.76, Florida Statutes, is amended to read:

553.76 General powers of the commission.—The commission is authorized to:

(2) Issue memoranda of procedure for its internal management and control. The commission may adopt rules related to its consensus-based decisionmaking process, including, but not limited to, super majority voting requirements ~~for~~ ~~commission actions relating to the adoption of the Florida Building Code or amendments to the code. However, the commission must adopt the Florida Building Code, and amendments thereto, by at least a two-thirds vote of the members present at a meeting.~~

Section 4. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1442

INTRODUCER: Transportation Committee and Senator Broxson

SUBJECT: Fee and Surcharge Reductions

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.	Gross	Diez-Arguelles	AFT	Recommend: Favorable
3.	Gross	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1442 reduces or eliminates numerous fees or surcharges imposed in the Florida Statutes. Specifically, the bill:

- Eliminates a \$10 fee for commissions for elected officers;
- Eliminates the \$2 fee deducted from each motor fuel sales tax refund claim;
- Eliminates the \$5 registration fee for persons or businesses required to register with the Department of Revenue for collecting, reporting, and remitting sale and use tax;
- Exempts a surviving spouse of a deceased motor vehicle owner from the motor vehicle title transfer fees when transferring the title into the surviving spouse's name;
- Eliminates the \$1 and \$2 fees for a veteran to receive a "Veteran" designation on his or her driver license or identification card;
- Exempts a veteran from the fee for an original commercial driver license;
- Exempts a person who is 80 years of age or older from the \$25 identification card fees;
- Provides a flat \$25 delinquency fee for specified Department of Business and Professional Regulation professional licensees, and removes the authority of a professional board to set the fee at a rate not to exceed the biennial renewal fee for such active status license;
- Reduces the application and license fees for commercial driver schools by one-half;
- Reduces the surcharge assessed on all building permit fees from 1.5 percent to one percent of the permit fee; and
- Eliminates or waives fees for professional educator certificates and required examinations for specified persons.

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$2.0 million and various state trust fund receipts by \$3.7 million in Fiscal Year 2017-2018.

Sections 3, 4, and 5 of the bill take effect January 1, 2018. The remaining sections of the bill take effect July 1, 2017.

II. Present Situation:

Elected Officer's Fee for Commission

Section 113.01, F.S., prescribes a \$10 fee for the issuance of each commission issued by the Governor and attested by the Secretary of State for an elected officer or a notary public. The commission shall not be issued or bear the state seal until the required fee is paid.¹ A commission to officers is a warrant or authority granted by government, which empowers the named individual to execute official acts. The \$10 fee is paid to the Chief Financial Officer, and deposited in the General Revenue Fund.²

The number of people charged the \$10 fee varies each year due to the number of elections and appointments. From July 1, 2016, to January 20, 2017, there were 1,936 commissions issued, and 202 commissions that will be issued upon payment of the fee, totaling \$21,380 in fees.³

Motor Fuel Tax Refund Claims

Section 206.41, F.S., imposes the following state taxes on motor fuel:

- A “constitutional fuel tax” of two cents per net gallon;⁴
- A “county fuel tax” of one cent per net gallon;⁵
- A “municipal fuel tax” of one cent per net gallon;⁶
- A “ninth-cent fuel tax” may be imposed by each county of one cent per net gallon;⁷
- A “local option fuel tax” may be imposed by each county of between one and eleven cents per net gallon;⁸

¹ Section 113.02, F.S.

² Section 15.09(3), F.S.

³ Office of Economic and Demographic Research, Revenue Estimating Conference, *Elimination of \$10 Elected Officer's Commission Fee* (Mar. 10, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/page319-332.pdf> (last visited April 11, 2017).

⁴ To be placed monthly in the state roads distribution fund in the state treasury and distributed as required by s. 9(c), Art. XII of the State Constitution.

⁵ To be used for public transportation purposes as required by s. 206.60, F.S.

⁶ Which is transferred into the Revenue Sharing Trust Fund for Municipalities to be used for transportation purposes as authorized in s. 206.605, F.S.

⁷ County and municipal governments may use the moneys received only for transportation expenditures; see s. 336.021, F.S.

⁸ Section 336.025, F.S.; county and municipal governments may use the moneys received only for transportation expenditures needed: to meet the requirements of the capital improvements element of an adopted comprehensive plan; to meet immediate local transportation problems; and for building comprehensive roadway networks by local governmental, excluding routine road maintenance.

- The State Comprehensive Enhanced Transportation System Tax, which is a motor fuel tax equal to two-thirds of the lesser of the sum of a county's ninth-cent fuel tax and the local option fuel tax or six cents, rounded to the nearest tenth of a cent;⁹
- The "fuel sales tax" of at least 6.9 cents per net gallon, which may be increased by a percentage change in the average of the Consumer Price Index issued by the U.S. Department of Labor for the most recent 12-month period ending September 30, compared to the base year average (the average for the 12-month period ending September 30, 1989);¹⁰ and
- An additional 0.125 cents per net gallon to defray expenses related to inspecting, testing, and analyzing motor fuel in this state.

Section 206.41, F.S., exempts qualified entities from certain motor fuel taxes, and authorizes refunds for qualified entities that have purchased and used tax-paid fuel for an exempt purpose. For example, any person who uses motor fuel for the following purposes on which the local option fuel tax, State Comprehensive Enhanced Transportation System Tax, or fuel sales tax was imposed is entitled to a refund of such tax:

- *Agricultural purposes*: motor fuel used in any tractor, vehicle, or farm equipment used exclusively on a farm or for processing farm products on the farm; and motor fuel used for transporting bees by water and the operating of equipment used in the apiary of a beekeeper;
- *Commercial fishing and aquacultural purposes*: motor fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, or sponges from salt or fresh water under the jurisdiction of the state for resale to the public. This does not include any fuel used for sport or pleasure fishing, or for any fuel used in any vehicle or equipment operated upon Florida highways; and
- *Commercial aviation purposes*: motor fuel used in the operation of aviation ground support vehicles or equipment, not used in any vehicle or equipment operated on Florida highways.¹¹

A person must apply to receive a permit from the Department of Revenue (DOR) to be issued a refund. Such permits are in effect for a year and shall be continuous as long as the person files refund claims with the DOR each year. A person will need to apply for a new permit if he or she does not file a claim for any year.¹²

Refunds are issued quarterly, and no refund will be authorized unless the amount due is at least \$5. Additionally, DOR is authorized to deduct a fee of \$2 for each refund claim, which is deposited into the General Revenue Fund.¹³

⁹ Majority of the funds are deposited into and used from the State Transportation Trust Fund and may be used only for projects in the adopted work program in the district in which the tax proceeds are collected. See s. 206.608, F.S.

¹⁰ Section 206.606, F.S., provides such proceeds are deposited in the Fuel Tax Collection Trust Fund to be distributed among the State Transportation Trust Fund, the Invasive Plant Control Trust Fund, the State Game Trust Fund, the Agricultural Emergency Eradication Trust Fund, and the Marine Resources Conservation Trust Fund.

¹¹ Additional entities entitled to certain motor fuel tax refunds are listed in s. 206.41(4), F.S.; more information is available on the Department of Revenue website, *Fuel Tax Refunds*, available at http://floridarevenue.com/dor/taxes/fuel/fuel_tax_refunds.html (last visited April 11, 2017).

¹² Section 206.41(5)(a), F.S.

¹³ Section 206.41(5)(c), F.S.

Registration Fee for Dealers and Businesses

Section 212.18, F.S., provides that every person desiring to engage in or conduct business in this state as a sales and use tax dealer, or to lease, rent, or let or grant license in transient lodgings or real property, and every person who receives money for admissions must register with the DOR to collect, report, and remit such taxes.¹⁴ A \$5 registration fee must accompany the application for a certificate of registration; however, the registration fee is not required to accompany an application to engage in or conduct business to make mail order sales. Additionally, the DOR may waive the registration fee for applications submitted through the DOR Internet registration process.¹⁵

A person who engages in activities that require registration but fails or refuses to do so commits a misdemeanor of the first degree and is subject to a \$100 registration fee in lieu of the \$5 fee. However, the DOR may waive the increase in the fee if it finds that the failure to register was due to reasonable cause and not to willful negligence, willful neglect, or fraud.¹⁶

Section 212.0596, F.S., provides that DOR may establish procedures to provide for the waiver of registration fees from unregistered persons who make mail order purchases for which tax is required to be remitted.

Motor Vehicle Title Transfer Fee

Florida law provides the fees, service charges, and disposition of funds for motor vehicle certificates of title. Specifically, s. 319.32(1), F.S., provides for a \$70 fee for each original and duplicate certificate of title, except for motor vehicles for hire,¹⁷ which are \$49, and \$2 for each salvage certificate of title. The Department of Highway Safety Motor Vehicles (DHSMV) also charges \$2 to note a lien on the certificate, \$1 to cover the cost of materials, and \$2.50 for shipping and handling. Additionally, s. 319.32(2), F.S., provides that there is a \$4.25 service charge for each certificate of title application, a \$10 additional fee for an original certificate of title issued for a vehicle registered outside of Florida, and a \$7 additional fee for each lien placed on a vehicle by the state child enforcement program.

The \$70 fee is distributed between the State Transportation Trust Fund and the General Revenue Fund, excluding \$1 that is deposited into the Highway Safety Operating Trust Fund (HSOTF) to fund the DHSMV's efforts to prevent and detect odometer fraud.¹⁸ The DHSMV or the tax collector who processes the application retains the \$4.25 service charge.¹⁹

¹⁴ Section 212.18(3)(a), F.S.

¹⁵ *Id.*

¹⁶ Section 212.18(3)(c), F.S.

¹⁷ Vehicles registered under s. 320.08(6), F.S.

¹⁸ Sections 319.32(5) and 319.324, F.S.; Section 319.32(5), F.S., provides that \$47 of each fee collected for an original or duplicate certificate of title is deposited into the State Transportation Trust Fund, which may receive up to \$200 million in any fiscal year. The remainder of the fee and any fees in excess of the \$200 million are deposited into the General Revenue Fund.

¹⁹ Section 319.32(2)(b), F.S.

A surviving spouse may dispose of the deceased's vehicle without being required to obtain a certificate of title in his or her name.²⁰ If the married couple are co-owners of the vehicle with names appearing conjoined by an "or" on the title, it is not necessary for the surviving spouse to apply for a new title, as he or she already has absolute rights to the vehicle. However, if the names are conjoined by "and" or if the vehicle is not co-owned by the surviving spouse and he or she wishes to maintain ownership of the vehicle, the surviving spouse is required to apply for an original certificate in his or her own name and pay the appropriate title fees.

"Veteran" Designation Fee

Florida provides the option for a veteran²¹ designation to be placed on a veteran's driver license or identification card upon request from the veteran, payment of a fee, and the presentation of a copy of the veteran's DD Form 214²² or other acceptable form specified by the Florida Department of Veterans' Affairs (FDVA).²³ The designation is added onto a driver license or identification card for a \$1 fee when the license or card is being issued or renewed, or a \$2 fee solely to replace a license or card in order to add on the designation, which is deposited in the HSOTF.²⁴

Commercial Driver License (CDL) for Veterans

An original or renewal CDL is \$75; however, if an applicant for a CDL has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires a CDL, the CDL is \$48.²⁵ These fees are deposited in the General Revenue Fund.²⁶

Free Identification (ID) Card for Persons 80 Years of Age and Older

Section 322.21(1)(f), F.S., provides for a \$25 fee for an original, renewal, or replacement ID card. The fee is deposited as follows:

- For an original ID card, the fee is deposited into the General Revenue Fund;
- For a replacement ID card, \$6 is deposited into the HSOTF and \$19 into the General Revenue Fund;
- For a renewal ID issued by the DHSMV, \$9 is deposited into the HSOTF and \$16 into the General Revenue Fund; and

²⁰ Section 319.28(1)(c), F.S.

²¹ Section 1.01(14), F.S., defines a "veteran" as "a person who served in the active military, naval, or air service who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veteran Affairs on individuals discharged or released with other than honorable discharges."

²² The Department of Defense issues each veteran a DD-214. This form identifies the veteran's condition of discharge, and contains information commonly needed to verify military service for benefits, retirement, employment, and membership in veterans' organizations. See DD214, available at <http://www.dd214.us/> (last visited Mar. 23, 2017).

²³ See ss. 322.051(8)(b) and 322.14(1)(d), F.S.

²⁴ The current veteran designation is a "V" printed on the license or card; however, the designation will be changed to read "Veteran" upon implementation of new designs for the license and card by the DHSMV. See ss. 322.051(8)(b) and 322.14(1)(d), F.S.

²⁵ Section 322.21(1)(a), F.S.

²⁶ Section 322.21(5), F.S.

- For a renewal ID issued by a tax collector, \$9 is retained by the tax collector and \$16 is deposited into the General Revenue Fund.

Currently, the fee for an ID card is waived for the following individuals:

- A person who is homeless;
- A person whose annual income is at or below 100 percent of the federal poverty level; and
- A juvenile offender in the custody or under the supervision of the Department of Juvenile Justice who is participating in transition-to-adulthood services under s. 985.461, F.S., and issued the ID card from a DHSMV mobile issuing unit.

Delinquency Fee for Professional License

The Department of Business and Professional Regulation (DBPR) is the governmental agency responsible for licensing and regulating many businesses and professionals in Florida.²⁷

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR, as well as the divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.²⁸

When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “permit, registration, certificate, or license” to the licensee.²⁹

Sections 455.203 and 455.213, F.S., establish general licensing authority for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the DBPR must determine by administrative rule³⁰ the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.³¹

Licensees may practice a profession only if they have an active status license.³² Generally, most licensees who practice a profession without an active status license³³ are subject to discipline, fines, or assessments as described in s. 455.227, F.S. At least 90 days before the end of a licensure cycle, the DBPR must provide a licensure renewal notification to an active or inactive licensee, and a notice of pending cancellation of licensure to a delinquent status licensee.³⁴

²⁷ See Department of Business and Professional Regulation, available at <http://www.myfloridalicense.com/dbpr/os/os-info.html> (last visited Mar. 23, 2017).

²⁸ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

²⁹ Sections 455.01(4) and (5), F.S.

³⁰ The administrative rules of the DBPR and of each board are available through the DBPR’s website, *Our Businesses and Professions*, available at <http://www.myfloridalicense.com/dbpr/divisions.html> (last visited Mar. 23, 2017).

³¹ Section 455.219(1), F.S.

³² Section 455.271(1), F.S.

³³ Section 455.271, F.S., on inactive and delinquent status of licenses, does not apply to a business establishment registered, permitted, or licensed by the DBPR to do business or to a person licensed, permitted, registered, or certified pursuant to ch. 310, F.S., on Pilots, Piloting, and Pilotage, or ch. 475, F.S., on Real Estate Brokers, Sales Associates, Schools, and Appraisers.

³⁴ See s. 455.273, F.S.

Each board, or the department when there is no board,³⁵ must permit a licensee to choose active or inactive status at the time of licensure renewal, and impose a fee for an inactive status license that does not exceed the fee for an active status license.³⁶ An inactive status licensee may change to active status at any time, if the licensee meets all requirements for active status, including paying all required fees and meeting all continuing education requirements. Failure of a licensee to renew a license before its expiration causes the license to become delinquent in the license cycle following expiration (delinquency cycle).³⁷

A delinquent status licensee must re-apply for active or inactive status during the delinquency cycle (except public accountancy licenses issued under ch. 473, F.S.). Failure by a delinquent status licensee to become active or inactive before the expiration of the delinquency cycle renders the license void, with no further action by the board.³⁸

The DBPR may, at its discretion, reinstate a license that has become void (except public accountancy licenses issued under ch. 473, F.S.) if the DBPR determines that the individual failed to comply because of illness or economic hardship. The individual must apply to the DBPR for reinstatement, pay all required fees, including a reinstatement fee, meet all continuing education requirements, and otherwise be eligible for renewal of licensure.³⁹

Section 477.271(7), F.S., provides that each board must impose an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, when a delinquent status licensee applies for active or inactive status. According to the DBPR, all boards have adopted delinquency fees, which vary by profession ranging from \$25 to \$260.⁴⁰ The fees collected are deposited into the Professional Regulation Trust Fund, which is used to carry out the provisions of ch. 455, F.S., as well as “provisions of law with respect to professions regulated by the department and any board within the department.”⁴¹

Commercial Driver School License Fee

The DHSMV is responsible for overseeing and licensing all commercial driver schools except commercial truck driving schools. A commercial driving school, also known as “traffic school,” educates individuals on driving skills, traffic laws, road safety, substance abuse, and other behind-the-wheel skills necessary for non-commercial vehicle drivers.⁴²

³⁵ Whenever a board for a profession does not exist, the DBPR is generally authorized by law to act instead. See e.g., ss. 455.219 and 455.271, F.S., for multiple references to actions of “the board, or the department when there is no board.”

³⁶ The status or a change in status of a licensee does not alter the board’s right to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent. See s. 455.271(11), F.S.

³⁷ Section 455.271(5), F.S.

³⁸ Section 455.271(6), F.S.

³⁹ *Id.*

⁴⁰ Department of Business and Profession Regulation, *Senate Bill 514 Fiscal Analysis* (identical language in SB 1442) (Feb. 28, 2017) (on file with the Senate Committee on Transportation).

⁴¹ Section 455.219(3), F.S.

⁴² Department of Highway Safety and Motor Vehicles, *Commercial Driving Schools*, available at <https://www.flhsmv.gov/driver-licenses-id-cards/education-courses/commercial-driving-schools/> (last visited April 5, 2017).

To become a licensed commercial driving school, the applicant must submit an application to the DHSMV. The application must include: the business's name and a certified copy of a certificate of Fictitious Name or Certificate of Incorporation from the Department of State; the business's address with a certificate of occupancy or a lease agreement; the names of all owners and operators of the business; a list of instructors and agents employed by the school; a list of the school's vehicles (including current certificates of insurance for each vehicle); fingerprints for a background check of every owner, officer, or partner of the school; and a nonrefundable application fee of \$50.⁴³

If the application is approved the school must pay a \$200 fee to receive the license. The license is valid for one year, and costs \$100 to renew. Additionally, the license is nontransferable. In the event that there is any change in ownership or interest in the business, the commercial driving school must surrender its current license and apply for a new license.⁴⁴

Application and license fees, including the renewal fee, are deposited into the General Revenue Fund.⁴⁵

Florida Building Code Permit Surcharge

Section 553.721, F.S., provides that all local building departments are required to assess and collect a surcharge at the rate of 1.5 percent on building permit fees (with a minimum surcharge of \$2) for the purpose of administering and enforcing the Florida Building Code.⁴⁶

The governmental authority responsible for collecting building permit fees in its local jurisdiction is authorized to retain 10 percent of the surcharge amount, which must be used to fund participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. The remaining amount is remitted to the DBPR quarterly to be deposited into the Professional Regulation Trust Fund to fund the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program.

From these funds, the Florida Building Code Compliance and Mitigation Program must be allocated \$925,000 each fiscal year, and the program must fund recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup, dated April 8, 2013, from existing resources, not to exceed \$30,000 in Fiscal Year 2016-2017. Additionally, funds collected from the surcharge must be used to fund Florida Fire Prevention Code informal interpretations managed by the State Fire Marshall for each fiscal year; however, funds used for this purpose may not exceed \$15,000. Funds collected from the surcharge may not be used to fund research on techniques for mitigation of radon in existing buildings.

⁴³ DHSMV, *Form HSMV 77074S – CDS Application* (September 2010), available at <https://www.flhsmv.gov/pdf/forms/77074s.pdf> (last visited April 5, 2017).

⁴⁴ Section 488.03, F.S.

⁴⁵ Section 488.08, F.S.

⁴⁶ Part IV of ch. 553, F.S., is cited as the “Florida Building Codes Act.”

Florida Professional Educator's Certificate Fees

Florida educators⁴⁷ must be certified by the state to teach in Florida's public schools as well as many private schools.⁴⁸ The State Board of Education establishes, by rule, educator certification fees for such applications, examinations, certifications, certification renewals, late renewals, recordmaking, and recordkeeping.⁴⁹ Such fees are required to be based on Florida Department of Education (DOE) estimates of the revenue required to implement the provisions of law with respect to certification of school personnel, and are deposited into the DOE's Educational Certification and Service Trust Fund.⁵⁰

Three types of educator certificates issued by the the DOE include:⁵¹

- A professional educator certificate is the highest type of full-time certificate issued. The professional certificate is a 5-year renewable certificate.⁵²
- A temporary educator certificate is a 3-year nonrenewable certificate issued to an applicant who does not qualify for a professional certificate.⁵³
- An Athletic Coaching certificate covers a full-time or part-time individual who is employed as an athletic coach in any public school in any district of the state.⁵⁴

To be eligible to seek a Florida educator's certificate, an individual must submit an application and meet specific requirements.⁵⁵

An applicant must demonstrate mastery of general knowledge, subject area knowledge, and professional preparation and education competence by passing state examinations. The registration fees for such examinations are as follows:⁵⁶

Examination	First-Time Registration Fee	Retake Registration Fee
General Knowledge Exam	\$130	\$150
Professional Education Test	\$150	\$170
Subject Area Examination	\$200	\$220

The fee for an initial and a subsequent renewal of the professional certificate is \$75. A 2016 preliminary survey by DOE indicates there are currently 171,468 teachers in Florida's public schools.⁵⁷

⁴⁷ In addition to classroom teachers, "educators" include school administrators and other school support professionals. See s. 1012.01(2) and (3), F.S.

⁴⁸ Department of Education, *Educator Certification*, available at <http://www.fldoe.org/teaching/certification/> (last visited Mar. 28, 2017).

⁴⁹ Section 1012.59, F.S.

⁵⁰ *Id.*

⁵¹ Section 1012.55, F.S.

⁵² Section 1012.56(1), (2), (3), (5), (6), and (7)(a), F.S.

⁵³ Section 1012.56(7)(b), F.S.; Rule 6A-4.004(1), F.A.C.

⁵⁴ Section 1012.55(2)(a), F.S.

⁵⁵ See, s. 1012.56(2), F.S.; Rule 6A-4.002, F.A.C.

⁵⁶ Rule 6A-4.0021, F.A.C.

⁵⁷ This count does not include administrative staff or other instructional staff such as guidance counselors or librarians. See Department of Education, *Staff – Instructional Staff* (Fall 2016), available at <http://www.fldoe.org/core/fileparse.php/7584/urlt/ARInstructionalStaff.xls> (last visited Mar. 28, 2017).

III. Effect of Proposed Changes:

Sections 1 and 2 eliminate the \$10 fee for commissions for elected officers.

Section 3 eliminates the \$2 fee deducted from each motor fuel sales tax refund claim.

Sections 4 and 5 eliminate the \$5 registration fee for persons or businesses required to register with the DOR in order to collect, report, and remit sales and use tax.

Sections 6 and 7 exempt a surviving spouse from motor vehicle title transfer fees provided under s. 319.32(1), F.S., when the title is being transferred from the deceased motor vehicle owner to the surviving spouse. The exemption applies regardless of whether the surviving spouse is named on the deceased motor vehicle owner's title.

Sections 8 and 9 eliminate the \$1 and \$2 fees to receive the "Veteran" designation on a driver license or ID card.

Section 10 exempts a veteran from the \$75 or \$48 fee for an original CDL upon presentation of his or her DD Form 214 or another acceptable form specified by the FDVA.

Section 10 also exempts a person who is 80 years of age or older from the \$25 fee for an original, renewal, or replacement ID card.

Section 11 creates a \$25 delinquency fee that is assessed against a licensee applying for active or inactive status while in delinquent status (current delinquent fees range between \$25 and \$260).⁵⁸ The bill removes the authority for the delinquency fee to be adopted by each DBPR board at a rate not exceeding the biennial renewal fee for an active status license.

Section 12 reduces the application and license fees, by one-half, for commercial driver schools. For commercial driver schools, the license application fee is \$25, instead of \$50; the license issuance fee is \$100, instead of \$200; and the annual license renewal fee is \$50, instead of \$100.

Section 13 reduces the surcharge assessed on all building permit fees from 1.5 percent of the permit fee to one percent of the permit fee.

Sections 14 and 15 eliminate the \$75 application fee for an initial Florida Professional Educator's Certificate, and eliminate the fee for first-time registration for the General Knowledge Test (\$130) and the Professional Education Test (\$150). The one subject area examination fee (\$200) is also waived for an initial Florida Professional Educator's Certificate applicant. In addition, the renewal fee (\$75) for a Florida Professional Educator's Certificate is no longer required for a certified teacher employed at a Florida public school.

⁵⁸ The Department of Business and Professional Regulation provided to the Revenue Estimating Conference a table that includes the current delinquency fees per profession. See Office of Economic and Demographic Research, Revenue Estimating Conference, *Reduces or eliminates several fees and surcharges administered by various state agencies* (Mar. 10, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/page319-332.pdf> (last visited April 11, 2017).

The bill provides that these fees are eliminated beginning in Fiscal Year 2017-2018 and each year thereafter. However, the bill also provides that the elimination of the fee is subject to funding appropriated in the General Appropriations Act.

Sections 3, 4, and 5 of the bill take effect January 1, 2018. The remaining sections of the bill take effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$2.0 million and reduce various state trust funds by \$3.7 million in Fiscal Year 2017-2018.

B. Private Sector Impact:

Due to the reduction of fees and surcharges, the bill may have an indeterminate positive fiscal impact on: elected officers; motor fuel sales tax refund recipients; persons or businesses required to register with DOR for sales and use tax purposes; surviving spouses transferring a motor vehicle title into their name from their deceased spouse; veterans receiving a "Veteran" designation on the driver license or ID card; veterans applying for an original CDL; persons 80 years of age or older receiving an ID card; licensees required to pay a delinquency fee to the DBPR; commercial driver schools; persons or businesses acquiring a building permit; initial applicants for the professional educator's certificate and Florida public school teachers.

C. Government Sector Impact:

The bill is unlikely to have a significant fiscal impact to state agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 15.09, 113.01, 206.41, 212.0596, 212.18, 319.28, 319.32, 322.051, 322.14, 322.21, 455.271, 488.03, 553.721, 1012.56, and 1012.59.

IX. Additional Information:

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

CS by Transportation on March 28, 2017:

The CS:

- Clarifies that, for the title transfer fee exemption, the surviving spouse does not have to be named on the deceased vehicle owner's title to receive the fee waiver.
- Adds that beginning in Fiscal Year 2017-2018 and each year thereafter (subject to funding appropriated), fees are eliminated for:
 - The application fee for an initial Florida Professional Educator's Certificate;
 - A first-time registration for the General Knowledge Test;
 - A first-time registration for the Professional Education Test;
 - One subject area examination for an initial Florida Professional Educator's Certificate applicant; and
 - The renewal of a Florida Professional Educator's Certificate by a certified teacher employed at a Florida public school.

- B. **Amendments:**

None.



902848

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Appropriations (Broxson) recommended the following:

Senate Amendment (with title amendment)

Between lines 451 and 452
insert:

Section 16. For the 2017-2018 fiscal year, the sum of \$15 million in recurring funds from the General Revenue Fund is appropriated to the Department of Education for the purposes of implementing sections 14 and 15 of this act.

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



902848

11 And the title is amended as follows:
12 Delete line 38
13 and insert:
14 provisions to changes made by the act; providing an
15 appropriation; providing

By the Committee on Transportation; and Senator Broxson

596-03006-17

20171442c1

1 A bill to be entitled
 2 An act relating to fee and surcharge reductions;
 3 amending s. 113.01, F.S.; deleting the fee for a
 4 commission of an elected officer by the Governor;
 5 amending s. 206.41, F.S.; deleting the fee for a claim
 6 for refund of the tax on motor fuel; amending s.
 7 212.18, F.S.; deleting a registration fee for certain
 8 dealers or businesses; amending s. 319.32, F.S.;
 9 exempting a surviving spouse from the fee to transfer
 10 a motor vehicle title; amending ss. 322.051 and
 11 322.14, F.S.; deleting fees for adding the word
 12 "Veteran" to an identification card or driver license;
 13 amending s. 322.21, F.S.; exempting veterans from the
 14 fee for an original commercial driver license;
 15 exempting certain persons from the fee for an
 16 identification card; amending s. 455.271, F.S.;
 17 revising provisions relating to imposition and amount
 18 of a delinquency fee for licensees regulated by the
 19 Department of Business and Professional Regulation;
 20 amending s. 488.03, F.S.; reducing fees for
 21 application, licensure, and renewal of licensure to
 22 operate a driver school; amending s. 553.721, F.S.;
 23 reducing the amount of the surcharge assessed by the
 24 department on Florida Building Code permit fees;
 25 amending ss. 1012.56 and 1012.59, F.S.; eliminating
 26 the application fee and the fees for certain
 27 examinations for an initial Florida Professional
 28 Educator's Certificate beginning in a specified fiscal
 29 year; waiving the fee for one subject area examination

Page 1 of 16

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

596-03006-17

20171442c1

30 for an initial Florida Professional Educator's
 31 Certificate beginning in a specified fiscal year;
 32 eliminating the fee for renewing a Florida
 33 Professional Educator's Certificate for a certified
 34 teacher employed at a Florida public school beginning
 35 in a specified fiscal year; providing specified
 36 provisions are subject to certain funding; amending
 37 ss. 15.09, 212.0596, and 319.28, F.S.; conforming
 38 provisions to changes made by the act; providing
 39 effective dates.
 40
 41 Be It Enacted by the Legislature of the State of Florida:
 42
 43 Section 1. Subsection (3) of section 15.09, Florida
 44 Statutes, is amended to read:
 45 15.09 Fees.—
 46 (3) All fees arising from certificates of election or
 47 appointment to office ~~and from commissions to officers~~ shall be
 48 paid to the Chief Financial Officer for deposit in the General
 49 Revenue Fund.
 50 Section 2. Section 113.01, Florida Statutes, is amended to
 51 read:
 52 113.01 Fee for commissions issued by Governor.—A fee of \$10
 53 is prescribed for the issuance of each commission issued by the
 54 Governor of the state and attested by the Secretary of State for
 55 ~~an elected officer or~~ a notary public.
 56 Section 3. Effective January 1, 2018, paragraph (c) of
 57 subsection (5) of section 206.41, Florida Statutes, is amended
 58 to read:

Page 2 of 16

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

596-03006-17

20171442c1

206.41 State taxes imposed on motor fuel.—

(5)

(c)1. No refund may be authorized unless a sworn application therefor containing such information as the department may determine is filed with the department not later than the last day of the month following the quarter for which the refund is claimed. However, when a justified excuse for late filing is presented to the department and the last preceding claim was filed on time, the deadline for filing may be extended an additional month. No refund will be authorized unless the amount due is for \$5 or more for any refund period and unless application is made upon forms prescribed by the department.

2. Claims made for refunds provided pursuant to subsection (4) shall be paid quarterly. ~~The department shall deduct a fee of \$2 for each claim, which fee shall be deposited in the General Revenue Fund.~~

Section 4. Effective January 1, 2018, subsection (7) of section 212.0596, Florida Statutes, is amended to read:

212.0596 Taxation of mail order sales.—

(7) The department may establish by rule procedures for collecting the use tax from unregistered persons who but for their mail order purchases would not be required to remit sales or use tax directly to the department. The procedures may provide for waiver of registration ~~and registration fees~~, provisions for irregular remittance of tax, elimination of the collection allowance, and nonapplication of local option surtaxes.

Section 5. Effective January 1, 2018, paragraphs (a) and (c) of subsection (3) of section 212.18, Florida Statutes, are

596-03006-17

20171442c1

amended to read:

212.18 Administration of law; registration of dealers; rules.—

(3) (a) A person desiring to engage in or conduct business in this state as a dealer, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are subject to tax under s. 212.03, or to lease, rent, or let or grant licenses in real property, and a person who sells or receives anything of value by way of admissions, must file with the department an application for a certificate of registration for each place of business. The application must include the names of the persons who have interests in such business and their residences, the address of the business, and other data reasonably required by the department. However, owners and operators of vending machines or newspaper rack machines are required to obtain only one certificate of registration for each county in which such machines are located. The department, by rule, may authorize a dealer that uses independent sellers to sell its merchandise to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the independent seller register as a dealer and remit the tax. The department may appoint the county tax collector as the department's agent to accept applications for registrations. The application must be submitted to the department before the person, firm, copartnership, or corporation may engage in such business, ~~and it must be accompanied by a registration fee of \$5. However, a registration fee is not required to accompany an application to engage in or~~

596-03006-17

20171442c1

~~conduct business to make mail order sales. The department may waive the registration fee for applications submitted through the department's Internet registration process.~~

(c)1. A person who engages in acts requiring a certificate of registration under this subsection and who fails or refuses to register commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Such acts are subject to injunctive proceedings as provided by law. A person who engages in acts requiring a certificate of registration and who fails or refuses to register is also subject to a \$100 initial registration fee ~~in lieu of the \$5 registration fee required by paragraph (a).~~ However, the department may waive the ~~increase in the~~ registration fee if it finds that the failure to register was due to reasonable cause and not to willful negligence, willful neglect, or fraud.

2.a. A person who willfully fails to register after the department provides notice of the duty to register as a dealer commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. The department shall provide written notice of the duty to register to the person by personal service or by sending notice by registered mail to the person's last known address. The department may provide written notice by both methods described in this sub-subparagraph.

Section 6. Paragraph (a) of subsection (1) of section 319.28, Florida Statutes, is amended to read:

319.28 Transfer of ownership by operation of law.—

(1)(a) In the event of the transfer of ownership of a motor vehicle or mobile home by operation of law as upon inheritance,

596-03006-17

20171442c1

devise or bequest, order in bankruptcy, insolvency, replevin, attachment, execution, or other judicial sale or whenever the engine of a motor vehicle is replaced by another engine or whenever a motor vehicle is sold to satisfy storage or repair charges or repossession is had upon default in performance of the terms of a security agreement, chattel mortgage, conditional sales contract, trust receipt, or other like agreement, and upon the surrender of the prior certificate of title or, when that is not possible, presentation of satisfactory proof to the department of ownership and right of possession to such motor vehicle or mobile home, and upon payment of the fee prescribed by law, except as provided in s. 319.32(1)(d), and presentation of an application for certificate of title, the department may issue to the applicant a certificate of title thereto.

Section 7. Subsection (1) of section 319.32, Florida Statutes, is amended to read:

319.32 Fees; service charges; disposition.—

(1)(a) The department shall charge a fee of \$70 for each original certificate of title, except for a certificate of title for a motor vehicle for hire registered under s. 320.08(6) for which the title fee shall be \$49; \$70 for each duplicate copy of a certificate of title, except for a certificate of title for a motor vehicle for hire registered under s. 320.08(6) for which the title fee shall be \$49; \$2 for each salvage certificate of title; and \$3 for each assignment by a lienholder. The department shall also charge a fee of \$2 for noting a lien on a title certificate, which fee includes the services for the subsequent issuance of a corrected certificate or cancellation of lien when that lien is satisfied.

596-03006-17

20171442c1

(b) If an application for a certificate of title is for a vehicle that is required by s. 319.14(1)(b) to have a physical examination, the department shall charge an additional fee of \$40 for the initial examination and \$20 for each subsequent examination. The initial examination fee shall be deposited into the General Revenue Fund, and each subsequent examination fee shall be deposited into the Highway Safety Operating Trust Fund. The physical examination of the vehicle includes, but is not limited to, verification of the vehicle identification number and verification of the bill of sale or title for major components.

(c) In addition to all other fees charged, a sum of \$1 shall be paid for the issuance of an original or duplicate certificate of title to cover the cost of materials used for security purposes. A service fee of \$2.50, to be deposited into the Highway Safety Operating Trust Fund, shall be charged for shipping and handling for each paper title mailed by the department.

(d) The surviving spouse of a deceased motor vehicle owner who applies for a transfer of title in his or her own name, regardless of whether the surviving spouse is named on the deceased motor vehicle owner's title, is exempt from the fees imposed under this subsection.

Section 8. Paragraph (b) of subsection (8) of section 322.051, Florida Statutes, is amended to read:

322.051 Identification cards.—

(8)

(b) The word "Veteran" shall be exhibited on the identification card of a veteran upon ~~the payment of an~~

596-03006-17

20171442c1

~~additional \$1 fee for the identification card and the~~
presentation of a copy of the person's DD Form 214, issued by the United States Department of Defense, or another acceptable form specified by the Department of Veterans' Affairs. Until a veteran's identification card is next renewed, the veteran may have the word "Veteran" added to his or her identification card upon surrender of his or her current identification card,
~~payment of a \$2 fee to be deposited into the Highway Safety Operating Trust Fund,~~ and presentation of a copy of his or her DD Form 214 or another acceptable form specified by the Department of Veterans' Affairs. If the applicant is not conducting any other transaction affecting the identification card, a replacement identification card shall be issued with the word "Veteran" without payment of the fee required in s. 322.21(1)(f)3.

Section 9. Paragraph (d) of subsection (1) of section 322.14, Florida Statutes, is amended to read:

322.14 Licenses issued to drivers.—

(1)

(d) The word "Veteran" shall be exhibited on the driver license of a veteran upon ~~the payment of an additional \$1 fee for the license and~~ the presentation of a copy of the person's DD Form 214, issued by the United States Department of Defense, or another acceptable form specified by the Department of Veterans' Affairs. Until a veteran's license is next renewed, the veteran may have the word "Veteran" added to his or her license upon surrender of his or her current license,
~~payment of a \$2 fee to be deposited into the Highway Safety Operating Trust Fund,~~ and presentation of a copy of his or her DD Form 214 or

596-03006-17 20171442c1

another acceptable form specified by the Department of Veterans' Affairs. If the applicant is not conducting any other transaction affecting the driver license, a replacement license shall be issued with the word "Veteran" without payment of the fee required in s. 322.21(1)(e).

Section 10. Paragraphs (a) and (f) of subsection (1) of section 322.21, Florida Statutes, are amended to read:

322.21 License fees; procedure for handling and collecting fees.—

(1) Except as otherwise provided herein, the fee for:

(a) An original or renewal commercial driver license is \$75, which shall include the fee for driver education provided by s. 1003.48. However, if an applicant has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires the commercial license, the fee is the same as for a Class E driver license. A delinquent fee of \$15 shall be added for a renewal within 12 months after the license expiration date. A veteran is exempt from the fee for an original commercial driver license upon presentation of his or her DD Form 214, issued by the United States Department of Defense, or another acceptable form specified by the Department of Veterans' Affairs.

(f) An original, renewal, or replacement identification card issued pursuant to s. 322.051 is \$25, except that an applicant who presents evidence satisfactory to the department that he or she is homeless as defined in s. 414.0252(7); his or her annual income is at or below 100 percent of the federal poverty level; ~~or~~ he or she is a juvenile offender who is in the custody or under the supervision of the Department of Juvenile

596-03006-17 20171442c1

Justice, is receiving services pursuant to s. 985.461, and whose identification card is issued by the department's mobile issuing units; or he or she is 80 years of age or older is exempt from such fee. Funds collected from fees for original, renewal, or replacement identification cards shall be distributed as follows:

1. For an original identification card issued pursuant to s. 322.051, the fee shall be deposited into the General Revenue Fund.

2. For a renewal identification card issued pursuant to s. 322.051, \$6 shall be deposited into the Highway Safety Operating Trust Fund, and \$19 shall be deposited into the General Revenue Fund.

3. For a replacement identification card issued pursuant to s. 322.051, \$9 shall be deposited into the Highway Safety Operating Trust Fund, and \$16 shall be deposited into the General Revenue Fund. Beginning July 1, 2015, or upon completion of the transition of the driver license issuance services, if the replacement identification card is issued by the tax collector, the tax collector shall retain the \$9 that would otherwise be deposited into the Highway Safety Operating Trust Fund and the remaining revenues shall be deposited into the General Revenue Fund.

Section 11. Subsection (7) of section 455.271, Florida Statutes, is amended to read:

455.271 Inactive and delinquent status.—

(7) Notwithstanding the provisions of the professional practice acts administered by the department, each board, or the department when there is no board, shall, ~~by rule~~, impose an

596-03006-17 20171442c1

additional delinquency fee of \$25, ~~not to exceed the biennial~~
~~renewal fee for an active status license~~, on a delinquent status
 licensee when such licensee applies for active or inactive
 status.

Section 12. Section 488.03, Florida Statutes, is amended to
 read:

488.03 License; application; expiration; renewal; fees.—An
 application for a license shall be made in the form prescribed
 by the Department of Highway Safety and Motor Vehicles. Every
 application for an original license must be accompanied by an
 application fee of \$25 ~~\$50~~, which fee may not be refunded. If
 the application is approved, a further fee of \$100 ~~\$200~~ must be
 paid before the license may be issued. The license shall be
 valid for a period of 1 year from the date of issuance and is
 not transferable. In the event of any change in ownership or
 interest in the business, an application for a new license,
 together with all instructors' certificates issued thereunder,
 must be surrendered to the department before a license will be
 issued to a new owner of the business. The fee for the annual
 renewal of a license is \$50 ~~\$100~~.

Section 13. Section 553.721, Florida Statutes, is amended
 to read:

553.721 Surcharge.—In order for the Department of Business
 and Professional Regulation to administer and carry out the
 purposes of this part and related activities, there is created a
 surcharge, to be assessed at the rate of 1 ~~1.5~~ percent of the
 permit fees associated with enforcement of the Florida Building
 Code as defined by the uniform account criteria and specifically
 the uniform account code for building permits adopted for local

596-03006-17 20171442c1

government financial reporting pursuant to s. 218.32. The
 minimum amount collected on any permit issued shall be \$2. The
 unit of government responsible for collecting a permit fee
 pursuant to s. 125.56(4) or s. 166.201 shall collect the
 surcharge and electronically remit the funds collected to the
 department on a quarterly calendar basis for the preceding
 quarter and continuing each third month thereafter. The unit of
 government shall retain 10 percent of the surcharge collected to
 fund the participation of building departments in the national
 and state building code adoption processes and to provide
 education related to enforcement of the Florida Building Code.
 All funds remitted to the department pursuant to this section
 shall be deposited in the Professional Regulation Trust Fund.
 Funds collected from the surcharge shall be allocated to fund
 the Florida Building Commission and the Florida Building Code
 Compliance and Mitigation Program under s. 553.841. Funds
 allocated to the Florida Building Code Compliance and Mitigation
 Program shall be \$925,000 each fiscal year. The Florida Building
 Code Compliance and Mitigation Program shall fund the
 recommendations made by the Building Code System Uniform
 Implementation Evaluation Workgroup, dated April 8, 2013, from
 existing resources, not to exceed \$30,000 in the 2016-2017
 fiscal year. Funds collected from the surcharge shall also be
 used to fund Florida Fire Prevention Code informal
 interpretations managed by the State Fire Marshal and shall be
 limited to \$15,000 each fiscal year. The State Fire Marshal
 shall adopt rules to address the implementation and expenditure
 of the funds allocated to fund the Florida Fire Prevention Code
 informal interpretations under this section. The funds collected

596-03006-17

20171442c1

from the surcharge may not be used to fund research on techniques for mitigation of radon in existing buildings. Funds used by the department as well as funds to be transferred to the Department of Health and the State Fire Marshal shall be as prescribed in the annual General Appropriations Act. The department shall adopt rules governing the collection and remittance of surcharges pursuant to chapter 120.

Section 14. Subsection (1) of section 1012.56, Florida Statutes, is amended to read:

1012.56 Educator certification requirements.—

(1) APPLICATION.—Each person seeking certification pursuant to this chapter shall submit a completed application containing the applicant's social security number to the Department of Education and remit the fee required pursuant to s. 1012.59 and rules of the State Board of Education.

(a) Beginning in the 2017-2018 fiscal year and each year thereafter, the application fee and the fees for the following examinations are eliminated for an applicant for the initial Florida Professional Educator's Certificate: the General Knowledge Test, for a first-time registration; and the Professional Education Test, for a first-time registration. This paragraph is subject to funding appropriated in the General Appropriations Act.

(b) Beginning in the 2017-2018 fiscal year and each year thereafter, one subject area examination fee is waived for an applicant for the initial Florida Professional Educator's Certificate. This paragraph is subject to funding appropriated in the General Appropriations Act.

(c) Beginning in the 2017-2018 fiscal year and each year

596-03006-17

20171442c1

thereafter, the fee for renewing a Florida Professional Educator's Certificate is eliminated for a certified teacher employed at a Florida public school. This paragraph is subject to funding appropriated in the General Appropriations Act.

(d) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement is limited to the purpose of administration of the Title IV-D program of the Social Security Act for child support enforcement. Pursuant to s. 120.60, the department shall issue within 90 calendar days after the stamped receipted date of the completed application:

1. ~~(a)~~ If the applicant meets the requirements, a professional certificate covering the classification, level, and area for which the applicant is deemed qualified and a document explaining the requirements for renewal of the professional certificate;

2. ~~(b)~~ If the applicant meets the requirements and if requested by an employing school district or an employing private school with a professional education competence demonstration program pursuant to paragraphs (6)(f) and (8)(b), a temporary certificate covering the classification, level, and area for which the applicant is deemed qualified and an official statement of status of eligibility; or

3. ~~(c)~~ If an applicant does not meet the requirements for either certificate, an official statement of status of eligibility.

596-03006-17 20171442c1

The statement of status of eligibility must advise the applicant of any qualifications that must be completed to qualify for certification. Each statement of status of eligibility is valid for 3 years after its date of issuance, except as provided in paragraph (2) (d).

Section 15. Section 1012.59, Florida Statutes, is amended to read:

1012.59 Certification fees.—

(1) The State Board of Education, by rule, shall establish separate fees for applications, examinations, certification, certification renewal, late renewal, recordmaking, and recordkeeping, and may establish procedures for scheduling and administering an examination upon an applicant's request. Each fee shall be based on department estimates of the revenue required to implement the provisions of law with respect to certification of school personnel. The application fee shall be nonrefundable. Each examination fee shall be sufficient to cover the actual cost of developing and administering the examination.

(a) Beginning in the 2017-2018 fiscal year and each year thereafter, the application fee and the fees for the following examinations are eliminated for an applicant for the initial Florida Professional Educator's Certificate: the General Knowledge Test, for a first-time registration; and the Professional Education Test, for a first-time registration. This paragraph is subject to funding appropriated in the General Appropriations Act.

(b) Beginning in the 2017-2018 fiscal year and each year thereafter, one subject area examination fee is waived for an applicant for the initial Florida Professional Educator's

596-03006-17 20171442c1

Certificate. This paragraph is subject to funding appropriated in the General Appropriations Act.

(c) Beginning in the 2017-2018 fiscal year and each year thereafter, the fee for renewing a Florida Professional Educator's Certificate is eliminated for a certified teacher employed at a Florida public school. This paragraph is subject to funding appropriated in the General Appropriations Act.

(2) The proceeds from the collection of certification fees, fines, penalties, and costs levied pursuant to this chapter shall be remitted by the Department of Education to the Chief Financial Officer for deposit into a separate fund to be known as the "Educational Certification and Service Trust Fund" and disbursed for the payment of expenses incurred by the Educational Practices Commission and in the printing of forms and bulletins and the issuing of certificates, upon vouchers approved by the department.

Section 16. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1550

INTRODUCER: Health Policy Committee and Senators Grimsley and Steube

SUBJECT: Health Information Transparency

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.	Forbes	Hansen	AP	Pre-meeting
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1550 requires the Agency for Health Care Administration (AHCA) to contract with a vendor to evaluate health information technology in the state and report to the Legislature by December 31, 2017, on the development of systems that will use existing public and private health care data sources to provide health care providers with real-time access to information about their patients' health records, ensure that health care services are clinically appropriate, and ensure cost avoidance by eliminating duplicative and overused services.

The bill also amends sections of the Florida Statutes related to Medicaid third party liability to clarify who is a third party, extend the time frame for the AHCA to file a claim of lien, require an entity to respond to a claim by the AHCA within 90 days, require an entity to either pay or deny a claim within 140 days, and to repeal language that requires the AHCA to enter into cooperative agreements with the Office of Insurance Regulation (OIR) and the Department of Revenue (DOR) for information sharing related to third party liability.

The agency anticipates the additional revenue from increased third party liability collections will offset the cost of contracting with a vendor to evaluate health information technology.

The bill takes effect July 1, 2017.

II. Present Situation:

Florida Center for Health Information and Transparency

The Florida Center, housed within the AHCA, collects, compiles, coordinates, analyzes, indexes, and disseminates health-related data and statistics.¹ The information and data it collects include:

- Health resources, including licensed health care practitioners, by specialty and type of practice;
- Health service inventories, acute care, long-term care, and other institutional care facilities and specific services provided by hospitals, nursing homes, home health agencies, and other licensed health care;
- Service utilization for licensed health care facilities;
- Health care costs and financing, including trends in health care prices and costs, the sources of payment for health care services, and federal, state, and local expenditures for health care;
- The extent of public and private health insurance coverage in this state; and
- Specific quality-of-care initiatives involving various health care providers available to the public.²

The Florida Center makes all information available to the public through www.FloridaHealthFinder.gov.

Electronic Health Records

An electronic health record (EHR) is a record of a person's medical treatment which is created by a licensed health care practitioner and stored in an interoperable accessible digital format.³ The Health Insurance Portability and Accountability Act (HIPAA) Security Rule establishes national standards for the security and privacy of personal health information (PHI) that a covered entity creates, receives, maintains, or transmits in electric form.⁴ A covered entity must:

- Ensure the confidentiality, integrity, and availability of all electronic PHI it creates, receives, maintains, or transmits;
- Identify and protect against reasonably anticipated threats to security or integrity of the information;
- Protect against reasonably anticipated, impermissible uses or disclosures; and
- Ensure compliance of its workforce.⁵

The Florida Electronic Health Records Exchange Act

Section 408.051, F.S., establishes the Florida Health Records Exchange Act. The act requires a healthcare provider that receives an authorization form containing a request for the release of an

¹ Section 408.05(1), F.S.

² Section 408.05(2), F.S.

³ Section 408.051(2)(a), F.S.

⁴ HHS.gov, "The Security Rule," available <https://www.hhs.gov/hipaa/for-professionals/security/index.html> (last visited March 29, 2017). Covered entities include health care practitioners, health plans, and health care clearinghouses, as well of the business associates of these entities.

⁵ HHS.gov, "Summary of the HIPAA Security Rule," available at <https://www.hhs.gov/hipaa/for-professionals/security/laws-regulations/index.html> (last visited March 29, 2017).

identifiable health record to accept the form as a valid authorization to release the record.⁶ Any release of health information after the receipt of an authorization form completed and submitted as prescribed by the Agency for Health Care Administration (AHCA) creates a rebuttable presumption that the release was appropriate.⁷ Additionally, the act shields a health care provider that acts in good faith to release or access an identifiable health record without the patient's consent for the use in treatment of an emergency medical condition when the health care provider is unable to obtain the patient's or the patient's representative's consent when the patient requires immediate medical attention.⁸

In addition to the provisions contained within the Florida Electronic Health Records Exchange Act, s. 408.062(5), F.S., requires the AHCA to develop and implement a strategy for the adoption and use of electronic health records, including the development of an electronic health information network for the sharing of electronic health records among health care facilities, health care providers, and health insurers.

Federal Requirements for the Meaningful Use of EHR

In order to qualify for EHR Incentive Programs⁹ offered by the Federal Centers for Medicare and Medicaid Services (CMS), hospitals and eligible professionals¹⁰ (EP) must attest to demonstrating the meaningful use of EHR. Meaningful use is defined as using EHR to:

- Improve quality, safety, efficiency, and reduce health disparities;
- Engage patients and family;
- Improve care coordination, and population and public health; and
- Maintain privacy and security of patient health information.

Meaningful use sets specific objectives that EPs and hospitals must achieve to qualify for incentives and these objectives have evolved in three stages over five years:

- Stage 1, from 2011-2012, included data capture and sharing;
- Stage 2, in 2014-2015, included advanced clinical processes; and
- Stage 3, in 2016, included improved outcomes.¹¹

Health Information Databases

A number of commercial products provide a health care practitioner with real time patient eligibility information, centralized claim filings, preauthorization services, and medical necessity

⁶ Section 408.051(4)(c), F.S.

⁷ Section 408.051(4)(e), F.S.; however, pursuant to s. 408.051(4)(d), F.S., the use of the form adopted by the AHCA is not required to authorize release of protected health information.

⁸ Section 408.051(3), F.S.

⁹ For a description of the EHR Incentive Programs, see <https://www.healthit.gov/providers-professionals/ehr-incentive-programs>, (last visited on March 30, 2017).

¹⁰ Eligible professionals are doctors of medicine, osteopathy, dental surgery, dental medicine, podiatry, and optometry and chiropractors. See <https://www.cms.gov/regulations-and-guidance/legislation/ehrincentiveprograms/eligibility.html>, (last visited on March 30, 2017)

¹¹ See <https://www.healthit.gov/providers-professionals/meaningful-use-definition-objectives>, (last visited on March 30, 2017). For more details on the specific on the objectives see <https://www.healthit.gov/providers-professionals/how-attain-meaningful-use>, (last visited on March 30, 2017).

validation.¹² However, the availability of such databases varies depending on geographic location, and the participating health insurers vary. The NORC at the University of Chicago¹³ is an independent research organization that performs ongoing work in health care delivery and financing, including access to insurance, payment, and delivery system reform, and offers expertise in acquiring and analyzing health care claims data and national health-related datasets.¹⁴ However, there is not a publicly accessible database that provides information on patient eligibility, claims data, and information regarding the clinical indications for the provision of specific medical services to a specific patient.

Medicaid Third Party Liability

Medicaid

Medicaid is a medical assistance program that provides access to health care for low-income families and individuals. Medicaid also assists aged and disabled people with costs of nursing facility care and other medical expenses. The AHCA is the single state agency responsible for administering the Florida Medicaid Program, which is funded by state and federal funds. The statutory authority for the Medicaid program is contained in ch. 409, F.S.

In 2011, the Legislature enacted Part IV of ch. 409, F.S., which requires all Medicaid beneficiaries to enroll in a managed care plan unless they are specifically exempt.¹⁵ The statewide Medicaid managed care program includes the long-term care managed care program and the managed care medical assistance program.

Responsibility for Third Party Recovery

Federal law requires that a state, in the administration of its Medicaid program, take reasonable measures to determine the legal liability of third parties to pay for any medical assistance provided, and seek recovery from a third party for any claims that have been paid for which a third party is liable.¹⁶ When a state identifies probable third party liability (TPL), it uses one of two methods to ensure that Medicaid is the payer of last resort: cost avoidance and pay-and-chase.¹⁷ Cost avoidance is the method used to avoid payment when other insurance resources are available to the beneficiary. Federal regulations generally require states to use cost avoidance when probable TPL is established.¹⁸ In contrast, the pay-and-chase method is used when a state

¹² For example, see Ability Network, (<https://abilitynetwork.com/about/>); Transunion, Inc. (https://www.transunion.com/product/insurance-eligibility-verification?utm_source=Google&utm_medium=ppc&utm_keyword=%252Bhealthcare%2520%252Beligibility&utm_source=Google&utm_medium=cpc&utm_content=%252Bhealthcare%2520%252Beligibility&utm_campaign=628735576&gclid=CMHM4ryhz9ICFY4vgQodrZYBgQ); and SSI Group, Inc. (<http://thessigroup.com/access-management/>) (last visited March 29, 2017).

¹³ NORC at University of Chicago was originally founded as the National Opinion Research Center. Since the original name no longer reflected its mission and the global nature of its work, the business name was established as NORC (not an acronym) in 2010. See NORC at the University of Chicago, “About Our Name,” available at <http://www.norc.org/Pages/about-our-name.aspx> (last visited March 29, 2017).

¹⁴ NORC at the University of Chicago, “Health Care,” available at <http://www.norc.org/Research/Departments/Pages/health-care.aspx> (last visited March 10, 2017).

¹⁵ Chapter 2011-134, Laws of Fla. Full implementation occurred in 2014.

¹⁶ 42 U.S.C. s. 1396a(a)(25). States are not required to seek reimbursement if it is not cost-effective to do so.

¹⁷ The state may contract with a vendor to fulfill this responsibility.

¹⁸ 42 CFR s. 433.139(b).

pays health care service providers for submitted claims and then attempts to recover payments from liable third parties.¹⁹ This usually occurs when TPL is later identified.

In 2005, Congress passed the Deficit Reduction Act (DRA)²⁰ that, among other things, clarified a state's duties to pursue reimbursement from third parties for medical assistance provided by Medicaid. Specifically, the DRA:

- Clarified the specific entities considered “third parties” and “health insurers” that may be liable for payment;
- Prohibited third parties and health insurers from discriminating against individuals on the basis of Medicaid eligibility; and
- Required that states pass laws requiring health insurers to:
 - Provide the state with eligibility and coverage information needed to identify potentially liable third parties;
 - Accept the assignment to the state of the Medicaid beneficiary's right to payment by such insurers for health care items or services for which Medicaid has paid;
 - Respond to any inquiry regarding a claim for payment of any health care item or service that is submitted within three years after the date of service; and
 - Agree not to deny such assignment or refuse to pay claims by Medicaid based on procedural reasons, if the claim is submitted within three years of the date of service and any action to enforce the state's right with respect to such claim is commenced within six years of the state's submission of the claim.

Florida Medicaid Third Party Liability Act

Under the Medicaid Third Party Liability Act,²¹ Medicaid is the payor of last resort for medically necessary goods and services furnished to Medicaid beneficiaries. All other sources of payment are primary to Medicaid. If third party benefits are discovered or become available after medical assistance is provided by Medicaid, state law requires Medicaid to be paid in full and prior to any other person, program, or entity.²²

An individual who is eligible for Medicaid assigns his or her right to third party benefits or payments to AHCA by applying for or accepting Medicaid benefits.²³ A Medicaid lien is automatically applied when a beneficiary receives services paid by Medicaid for which a third

¹⁹ Under 42 U.S.C. s. 1396a(a)(25), a state must also pay and chase for prenatal care, preventive pediatric care, or if the coverage is through a parent whose obligation to pay support is enforced by the state's child support enforcement agency.

²⁰ Pub. Law No. 109-171.

²¹ Section 409.910, F.S.

²² Id. Florida Medicaid contracts with Health Management Systems, which subcontracts to Conduent Payment Integrity Solutions to pursue these reimbursements. See <http://flmedicaidtplrecovery.com/tortcasualty/> (last visited April 5, 2017). For recipients enrolled in the statewide Medicaid managed care program, the managed care organization is responsible for TPL collections. See AHCA, SMMC Model Contract, Core Contract Provisions, available at http://www.fdhc.state.fl.us/medicaid/statewide_mc/pdf/Contracts/2017-02-01/02-01-17_Attachment_II.pdf (last visited April 5, 2017).

²³ Section 409.910(6), F.S.

party may be liable. A verified claim of lien may be filed with the clerk of the circuit court in the beneficiary's last known county of residence.²⁴

III. Effect of Proposed Changes:

This bill amends s. 408.05, F.S., to require that the AHCA contract with a vendor to evaluate health information technology in the state and report to the Legislature on best practices in for the development of systems that will leverage existing public and private health care data sources in order to:

- Provide health care providers with real-time access to information about their patients' health records.
- Methods to increase interoperability across delivery systems and geographic locations, including a review of public and private insurance eligibility, to ensure that health care services, including Medicaid services, are clinically appropriate;
- Ensure cost avoidance through elimination of duplicative services and overutilization of services.

The bill requires that the AHCA submit the report to the Legislature by December 31, 2017.

The bill also amends ss. 409.901 and 409.910, F.S., relating to the Medicaid Third Party Liability Program, to bring the statutes into conformity with the federal DRA and improve efficiencies.

The bill:

- Includes within the definition of "third party" a health insurer; self-insured plan; group health plan, as defined in s. 607(1) of the Employee Retirement Income Security Act of 1974; service benefit plan; managed care organization; liability insurance, including self-insurance; no-fault insurance; workers' compensation laws or plans; or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service.
- Extends the amount of time the AHCA has to file a TPL lien from one year to three years after last payment for medical care, date of the AHCA's discovery of third party liability, or date of the discovery of a cause of action.
- Requires an entity to respond to a claim within 90 days with payment, a written request for more information, or a written denial of the claim stating a reason for denial.
- Establishes an uncontestable obligation to pay the claim if the entity fails to pay or respond to a claim within 140 days.
- Repeals provisions requiring the AHCA to enter into cooperative agreements with OIR and DOR to adopt rules for information sharing related to third party liability.
- Clarifies that a beneficiary may contest the amount of reimbursement from a recovered medical expense by filing a petition with the Division of Administrative Hearings only if amount of the recovery is limited by federal law.²⁵

²⁴ Section 409.910(6)(c)2., F.S. A lack of a properly filed claim of lien will not affect AHCA's assignment rights or the existence of the lien, but only the effective date of notice.

²⁵ Federal law prohibits a Medicaid agency from recovering more than the amount of a recovery that is attributable to past and future medical needs. If a recovery does not provide an allocation, AHCA may recover 50 percent of the remaining recovery after payment of attorney fees and costs, up to the total amount of medical assistance provided. Therefore, the beneficiary may argue that the medical assistance provided is less than the remaining 50 percent of the recovery or that

The bill's provisions take effect on July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an impact on the private sector if the AHCA recovers funds from the person or entity through TPL action beyond the current timeframe or if funds that would have been contestable but have become uncontestable through inaction of the person or entity are recovered through the TPL program.

C. Government Sector Impact:

The bill ensures Medicaid can review claims for up to 3 years from the date of service for purposes of identifying other liable third parties. As a result, the Agency anticipates between \$250,000-\$500,000 in additional recoveries for AHCA and managed care organizations.

The Agency is expected to expend up to \$500,000 to secure and execute the required vendor contract to evaluate health information technology. The agency may be able to leverage existing resources to obtain federal matching funds. No additional staff positions or rate will be required to implement the project.

AHCA's calculation of the amount that should have been allocated as past and future medical expenses is incorrect.
42 U.S.C. s. 1396a(a)(25).

VI. Technical Deficiencies:

The title for CS/SB 1550 is “An act relating to the health information transparency.” Sections two and three of the bill amend provisions related to TPL and do not appear to amend provisions related to health information transparency. As such, the current title of the bill may not be broad enough to incorporate all of the substantive provisions of the bill. The title should be amended so that it incorporates all substantive provisions. A title such as “An act relating to health care costs” may be sufficient.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 408.05, 409.901, and 409.910.

IX. Additional Information:

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

CS by Health Policy on March 3, 2017:

The CS:

- Amends current bill language to:
 - Require the report be delivered by December 31, 2017;
 - Remove the automatic repeal date.
- Adds new language that:
 - Amends the definition of “third party” in part III of ch. 409, F.S., (related to Medicaid) to specifically include health insurers; self-insured plans, group health plan; service benefit plans; managed care organizations; liability insurance; workers’ comp laws or plans; or other parties that are legally responsible for payment of a claim for a health care item or service by statute, contract, or agreement.
 - Extends the time for AHCA to file a claim of lien from one year to three years after last payment for medical care, date of AHCA’s discovery of third party liability; or date of the discovery of a cause of action.
 - Requires an entity to respond to a claim within 90 days with payment, a written request for more information, or a written denial of the claim stating a reason for denial. Failure to pay or respond to a claim within 140 days creates an uncontestable obligation to pay the claim.
 - Repeals provisions requiring the AHCA to enter into cooperative agreements with OIR and DOR to adopt rules for information sharing related to third party liability.
 - Clarifies that a beneficiary may contest the amount of reimbursement from a recovered medical expense by filing a petition with the DOAH only if amount of the recovery is limited by federal law.

B. Amendments:

None.

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



928046

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Before line 34

insert:

Section 1. Present subsection (9) of section 395.1055, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) is added to that section, to read:

395.1055 Rules and enforcement.—

(9) The agency shall establish a technical advisory panel to develop procedures and standards for measuring outcomes of



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pediatric cardiac catheterization programs and pediatric open-heart surgery programs.

(a) The panel must be composed of three at-large members, including one cardiologist who is board certified in caring for adults with congenital heart disease and two board-certified pediatric cardiologists, neither of whom may be employed by any of the hospitals specified in subparagraphs 1.-10. or their affiliates, each of whom is appointed by the Secretary of Health Care Administration, and 10 members, each of whom is a pediatric cardiologist or a pediatric cardiovascular surgeon, each appointed by the chief executive officer of one of the following hospitals:

1. Johns Hopkins All Children's Hospital in St. Petersburg.
2. Arnold Palmer Hospital for Children in Orlando.
3. Joe DiMaggio Children's Hospital in Hollywood.
4. Nicklaus Children's Hospital in Miami.
5. St. Joseph's Children's Hospital in Tampa.
6. University of Florida Health Shands Hospital in Gainesville.

7. University of Miami Holtz Children's Hospital in Miami.
8. Wolfson Children's Hospital in Jacksonville.
9. Florida Hospital for Children in Orlando.
10. Nemours Children's Hospital in Orlando.

(b) Based on the recommendations of the panel, the agency shall develop and adopt rules for pediatric cardiac catheterization programs and pediatric open-heart surgery programs which include at least the following:

1. A risk adjustment procedure that accounts for the variations in severity and case mix found in hospitals in this



928046

state;

2. Outcome standards specifying expected levels of performance in pediatric cardiac programs. Such standards may include, but are not limited to, in-hospital mortality, infection rates, nonfatal myocardial infarctions, length of postoperative bleeds, and returns to surgery; and

3. Specific steps to be taken by the agency and licensed facilities that do not meet the outcome standards within a specified time, including time required for detailed case reviews and development and implementation of corrective action plans.

Section 2. Paragraph (b) of subsection (3) of section 408.0361, Florida Statutes, is amended to read:

408.0361 Cardiovascular services and burn unit licensure.—

(3) In establishing rules for adult cardiovascular services, the agency shall include provisions that allow for:

(b) For a hospital seeking a Level I program, demonstration that, for the most recent 12-month period as reported to the agency, it has provided a minimum of 300 adult inpatient and outpatient diagnostic cardiac catheterizations or, for the most recent 12-month period, has discharged or transferred at least 300 inpatients with the principal diagnosis of ischemic heart disease and that it has a formalized, written transfer agreement with a hospital that has a Level II program, including written transport protocols to ensure safe and efficient transfer of a patient within 60 minutes. However, a hospital located more than 100 road miles from the closest Level II adult cardiovascular services program does not need to meet the 60-minute transfer time protocol if the hospital demonstrates that it has a



928046

69 formalized, written transfer agreement with a hospital that has
70 a Level II program. The agreement must include written transport
71 protocols to ensure the safe and efficient transfer of a
72 patient, taking into consideration the patient's clinical and
73 physical characteristics, road and weather conditions, and
74 viability of ground and air ambulance service to transfer the
75 patient. At a minimum, the rules for adult cardiovascular
76 services must require nursing and technical staff to have
77 demonstrated experience in handling acutely ill patients
78 requiring percutaneous cardiac intervention in dedicated cardiac
79 interventional laboratories or surgical centers. If a staff
80 member's previous experience was in a dedicated cardiac
81 interventional laboratory at a hospital that did not have an
82 approved adult open-heart-surgery program, the staff member's
83 previous experience does not qualify unless, at the time the
84 staff member acquired his or her experience, the dedicated
85 cardiac interventional laboratory:

86 1. Had an annual volume of 500 or more percutaneous cardiac
87 intervention procedures;

88 2. Achieved a demonstrated success rate of 95 percent or
89 greater for percutaneous cardiac intervention procedures;

90 3. Experienced a complication rate of less than 5 percent
91 for percutaneous cardiac intervention procedures; and

92 4. Performed diverse cardiac procedures, including, but not
93 limited to, balloon angioplasty and stenting, rotational
94 atherectomy, cutting balloon atheroma remodeling, and procedures
95 relating to left ventricular support capability.

96 Section 3. For the 2017-2018 fiscal year, the sum of
97 \$95,620 is appropriated from the Health Care Trust Fund to the



928046

Agency for Health Care Administration for the purpose of
implementing s. 395.1055(9), Florida Statutes.

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

And the title is amended as follows:

Delete line 2

and insert:

An act relating to health care services; amending s.
395.1055, F.S.; requiring the Agency for Health Care
Administration to establish a technical advisory panel
to develop procedures and standards for measuring
outcomes of pediatric cardiac catheterization programs
and pediatric open-heart surgery programs; providing
for the membership of the technical advisory panel;
requiring the agency to develop and adopt rules for
pediatric cardiac catheterization programs and
pediatric open-heart surgery programs based on
recommendations of the technical advisory panel;
amending s. 408.0361, F.S.; establishing additional
criteria that must be included by the agency in rules
relating to adult cardiovascular services at hospitals
seeking licensure for a Level I program; providing an
appropriation;



545008

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment to Amendment (928046) (with title amendment)

Before line 5
insert:

Section 1. Paragraph (b) of subsection (3) of section 408.0361, Florida Statutes, is amended to read:

408.0361 Cardiovascular services and burn unit licensure.—

(3) In establishing rules for adult cardiovascular services, the agency shall include provisions that allow for:



545008

(b)1. For a hospital seeking a Level I program, demonstration that, for the most recent 12-month period as reported to the agency, it has provided a minimum of 300 adult inpatient and outpatient diagnostic cardiac catheterizations or, for the most recent 12-month period, has discharged or transferred at least 300 patients ~~inpatients~~ with the principal diagnosis of ischemic heart disease and that it has a formalized, written transfer agreement with a hospital that has a Level II program, including written transport protocols to ensure safe and efficient transfer of a patient within 60 minutes. ~~However,~~

2.a. A hospital located more than 100 road miles from the closest Level II adult cardiovascular services program does not need to meet the diagnostic cardiac catheterization volume and ischemic heart disease diagnosis volume requirements in subparagraph 1. if the hospital demonstrates that it has, for the most recent 12-month period as reported to the agency, provided a minimum of 100 adult inpatient and outpatient diagnostic cardiac catheterizations or that, for the most recent 12-month period, it has discharged or transferred at least 300 patients with the principal diagnosis of ischemic heart disease.

b. A hospital located more than 100 road miles from the closest Level II adult cardiovascular services program does not need to meet the 60-minute transfer time protocol requirement in subparagraph 1. if the hospital demonstrates that it has a formalized, written transfer agreement with a hospital that has a Level II program. The agreement must include written transport protocols to ensure the safe and efficient transfer of a patient, taking into consideration the patient's clinical and



545008

physical characteristics, road and weather conditions, and
viability of ground and air ambulance service to transfer the
patient.

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

And the title is amended as follows:

Delete line 105

and insert:

An act relating to health care services; amending s.
408.0361, F.S.; requiring the Agency for Health Care
Administration to include a provision in the
establishment of rules for adult cardiovascular
services relating to diagnostic cardiac
catheterization volume and ischemic heart disease
diagnosis volume requirements; amending s.

By the Committee on Health Policy; and Senators Grimsley and Steube

588-03372-17

20171550c1

1 A bill to be entitled
 2 An act relating to health information transparency;
 3 amending s. 408.05, F.S.; requiring the Agency for
 4 Health Care Administration to contract with a vendor
 5 to evaluate health information technology activities
 6 to identify best practices and methods to increase
 7 interoperability; requiring a report to the
 8 Legislature by a specified date; amending s. 409.901,
 9 F.S.; revising the definition of the term "third
 10 party" for purposes of liability for payment of
 11 certain medical services covered by Medicaid; amending
 12 s. 409.910, F.S.; revising provisions relating to
 13 responsibility for Medicaid payments in settlement
 14 proceedings; extending the period of time for filing a
 15 claim of lien filed for purposes of third-party
 16 liability; extending the period of time within which
 17 the agency is authorized to pursue certain causes of
 18 action; revising procedures for a recipient to contest
 19 the amount payable to the agency when federal law
 20 limits reimbursement under certain circumstances;
 21 requiring certain entities responsible for payment of
 22 claims to provide certain records and information and
 23 respond to requests for payment of claims within a
 24 specified timeframe as a condition of doing business
 25 in the state; providing circumstances under which such
 26 parties are obligated to pay claims; deleting
 27 provisions relating to cooperative agreements between
 28 the agency, the Office of Insurance Regulation, and
 29 the Department of Revenue; providing an effective

Page 1 of 11

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

588-03372-17

20171550c1

30 date.
 31
 32 Be It Enacted by the Legislature of the State of Florida:
 33
 34 Section 1. Present paragraphs (d) through (j) of subsection
 35 (3) of section 408.05, Florida Statutes, are redesignated as
 36 paragraphs (e) through (k), respectively, and a new paragraph
 37 (d) is added to that subsection, to read:
 38 408.05 Florida Center for Health Information and
 39 Transparency.—
 40 (3) HEALTH INFORMATION TRANSPARENCY.—In order to
 41 disseminate and facilitate the availability of comparable and
 42 uniform health information, the agency shall perform the
 43 following functions:
 44 (d) Contract with a vendor to evaluate health information
 45 technology activities within the state. The vendor shall
 46 identify best practices for developing data systems which will
 47 leverage existing public and private health care data sources to
 48 provide health care providers with real-time access to their
 49 patients' health records. The evaluation shall identify methods
 50 to increase interoperability across delivery systems regardless
 51 of geographic location and include a review of eligibility for
 52 public programs or private insurance to ensure that health care
 53 services, including Medicaid services, are clinically
 54 appropriate. The evaluation shall address cost-avoidance through
 55 the elimination of duplicative services or overutilization of
 56 services. The agency shall submit a report of the vendor's
 57 findings and recommendations to the President of the Senate and
 58 the Speaker of the House of Representatives by December 31,

Page 2 of 11

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

588-03372-17

20171550c1

2017.

Section 2. Subsection (27) of section 409.901, Florida Statutes, is amended to read:

409.901 Definitions; ss. 409.901-409.920.—As used in ss. 409.901-409.920, except as otherwise specifically provided, the term:

(27) "Third party" means an individual, entity, or program, excluding Medicaid, that is, may be, could be, should be, or has been liable for all or part of the cost of medical services related to any medical assistance covered by Medicaid. A third party includes a third-party administrator; ~~or a pharmacy~~ benefits manager; health insurer; self-insured plan; group health plan, as defined in s. 607(1) of the Employee Retirement Income Security Act of 1974; service benefit plan; managed care organization; liability insurance, including self-insurance; no-fault insurance; workers' compensation laws or plans; or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service.

Section 3. Subsection (4), paragraph (c) of subsection (6), paragraph (h) of subsection (11), subsection (16), paragraph (b) of subsection (17), and subsection (20) of section 409.910, Florida Statutes, are amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(4) After the agency has provided medical assistance under the Medicaid program, it shall seek ~~recovery of~~ reimbursement from third-party benefits to the limit of legal liability and for the full amount of third-party benefits, but not in excess

588-03372-17

20171550c1

of the amount of medical assistance paid by Medicaid, as to:

(a) Claims for which the agency has a waiver pursuant to federal law; or

(b) Situations in which the agency learns of the existence of a liable third party or in which third-party benefits are discovered or become available after medical assistance has been provided by Medicaid.

(6) When the agency provides, pays for, or becomes liable for medical care under the Medicaid program, it has the following rights, as to which the agency may assert independent principles of law, which shall nevertheless be construed together to provide the greatest recovery from third-party benefits:

(c) The agency is entitled to, and has, an automatic lien for the full amount of medical assistance provided by Medicaid to or on behalf of the recipient for medical care furnished as a result of any covered injury or illness for which a third party is or may be liable, upon the collateral, as defined in s. 409.901.

1. The lien attaches automatically when a recipient first receives treatment for which the agency may be obligated to provide medical assistance under the Medicaid program. The lien is perfected automatically at the time of attachment.

2. The agency is authorized to file a verified claim of lien. The claim of lien shall be signed by an authorized employee of the agency, and shall be verified as to the employee's knowledge and belief. The claim of lien may be filed and recorded with the clerk of the circuit court in the recipient's last known county of residence or in any county

588-03372-17

20171550c1

deemed appropriate by the agency. The claim of lien, to the extent known by the agency, shall contain:

a. The name and last known address of the person to whom medical care was furnished.

b. The date of injury.

c. The period for which medical assistance was provided.

d. The amount of medical assistance provided or paid, or for which Medicaid is otherwise liable.

e. The names and addresses of all persons claimed by the recipient to be liable for the covered injuries or illness.

3. The filing of the claim of lien pursuant to this section shall be notice thereof to all persons.

4. If the claim of lien is filed within 3 years ~~1 year~~ after the later of the date when the last item of medical care relative to a specific covered injury or illness was paid, or the date of discovery by the agency of the liability of any third party, or the date of discovery of a cause of action against a third party brought by a recipient or his or her legal representative, record notice shall relate back to the time of attachment of the lien.

5. If the claim of lien is filed after 3 years ~~1 year~~ after the later of the events specified in subparagraph 4., notice shall be effective as of the date of filing.

6. Only one claim of lien need be filed to provide notice as set forth in this paragraph and shall provide sufficient notice as to any additional or after-paid amount of medical assistance provided by Medicaid for any specific covered injury or illness. The agency may, in its discretion, file additional, amended, or substitute claims of lien at any time after the

588-03372-17

20171550c1

initial filing, until the agency has been repaid the full amount of medical assistance provided by Medicaid or otherwise has released the liable parties and recipient.

7. No release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, or settlement agreement shall be valid or effectual as against a lien created under this paragraph, unless the agency joins in the release or satisfaction or executes a release of the lien. An acceptance of a release or satisfaction of any cause of action, suit, claim, counterclaim, demand, or judgment and any settlement of any of the foregoing in the absence of a release or satisfaction of a lien created under this paragraph shall prima facie constitute an impairment of the lien, and the agency is entitled to recover damages on account of such impairment. In an action on account of impairment of a lien, the agency may recover from the person accepting the release or satisfaction or making the settlement the full amount of medical assistance provided by Medicaid. Nothing in this section shall be construed as creating a lien or other obligation on the part of an insurer which in good faith has paid a claim pursuant to its contract without knowledge or actual notice that the agency has provided medical assistance for the recipient related to a particular covered injury or illness. However, notice or knowledge that an insured is, or has been a Medicaid recipient within 1 year from the date of service for which a claim is being paid creates a duty to inquire on the part of the insurer as to any injury or illness for which the insurer intends or is otherwise required to pay benefits.

8. The lack of a properly filed claim of lien shall not affect the agency's assignment or subrogation rights provided in

588-03372-17

20171550c1

175 this subsection, nor shall it affect the existence of the lien,
 176 but only the effective date of notice as provided in
 177 subparagraph 5.

178 9. The lien created by this paragraph is a first lien and
 179 superior to the liens and charges of any provider, and shall
 180 exist for a period of 7 years, if recorded, after the date of
 181 recording; and shall exist for a period of 7 years after the
 182 date of attachment, if not recorded. If recorded, the lien may
 183 be extended for one additional period of 7 years by rerecording
 184 the claim of lien within the 90-day period preceding the
 185 expiration of the lien.

186 10. The clerk of the circuit court for each county in the
 187 state shall endorse on a claim of lien filed under this
 188 paragraph the date and hour of filing and shall record the claim
 189 of lien in the official records of the county as for other
 190 records received for filing. The clerk shall receive as his or
 191 her fee for filing and recording any claim of lien or release of
 192 lien under this paragraph the total sum of \$2. Any fee required
 193 to be paid by the agency shall not be required to be paid in
 194 advance of filing and recording, but may be billed to the agency
 195 after filing and recording of the claim of lien or release of
 196 lien.

197 11. After satisfaction of any lien recorded under this
 198 paragraph, the agency shall, within 60 days after satisfaction,
 199 either file with the appropriate clerk of the circuit court or
 200 mail to any appropriate party, or counsel representing such
 201 party, if represented, a satisfaction of lien in a form
 202 acceptable for filing in Florida.

203 (11) The agency may, as a matter of right, in order to

588-03372-17

20171550c1

204 enforce its rights under this section, institute, intervene in,
 205 or join any legal or administrative proceeding in its own name
 206 in one or more of the following capacities: individually, as
 207 subrogee of the recipient, as assignee of the recipient, or as
 208 lienholder of the collateral.

209 (h) Except as otherwise provided in this section, actions
 210 to enforce the rights of the agency under this section shall be
 211 commenced within 6 ~~5~~ years after the date a cause of action
 212 accrues, with the period running from the later of the date of
 213 discovery by the agency of a case filed by a recipient or his or
 214 her legal representative, or of discovery of any judgment,
 215 award, or settlement contemplated in this section, or of
 216 discovery of facts giving rise to a cause of action under this
 217 section. Nothing in this paragraph affects or prevents a
 218 proceeding to enforce a lien during the existence of the lien as
 219 set forth in subparagraph (6)(c)9.

220 (16) Any transfer or encumbrance of any right, title, or
 221 interest to which the agency has a right pursuant to this
 222 section, with the intent, likelihood, or practical effect of
 223 defeating, hindering, or reducing reimbursement to ~~recovery by~~
 224 the agency for ~~reimbursement of~~ medical assistance provided by
 225 Medicaid, shall be deemed to be a fraudulent conveyance, and
 226 such transfer or encumbrance shall be void and of no effect
 227 against the claim of the agency, unless the transfer was for
 228 adequate consideration and the proceeds of the transfer are
 229 reimbursed in full to the agency, but not in excess of the
 230 amount of medical assistance provided by Medicaid.

231 (17)

232 (b) If federal law limits the agency to reimbursement from

588-03372-17

20171550c1

233 the recovered medical expense damages, a recipient, or his or
 234 her legal representative, may contest the amount designated as
 235 recovered medical expense damages payable to the agency pursuant
 236 to the formula specified in paragraph (11)(f) by filing a
 237 petition under chapter 120 within 21 days after the date of
 238 payment of funds to the agency or after the date of placing the
 239 full amount of the third-party benefits in the trust account for
 240 the benefit of the agency pursuant to paragraph (a). The
 241 petition shall be filed with the Division of Administrative
 242 Hearings. For purposes of chapter 120, the payment of funds to
 243 the agency or the placement of the full amount of the third-
 244 party benefits in the trust account for the benefit of the
 245 agency constitutes final agency action and notice thereof. Final
 246 order authority for the proceedings specified in this subsection
 247 rests with the Division of Administrative Hearings. This
 248 procedure is the exclusive method for challenging the amount of
 249 third-party benefits payable to the agency. In order to
 250 successfully challenge the amount designated as recovered
 251 medical expenses payable to the agency, the recipient must
 252 prove, by clear and convincing evidence, that the a lesser
 253 portion of the total recovery that should be allocated as
 254 reimbursement for past and future medical expenses is less than
 255 the amount calculated by the agency pursuant to the formula set
 256 forth in paragraph (11)(f). Alternatively, the recipient must
 257 prove by clear and convincing evidence ~~or~~ that Medicaid provided
 258 a lesser amount of medical assistance than that asserted by the
 259 agency.

260 (20) (a) Entities providing health insurance as defined in
 261 s. 624.603, health maintenance organizations and prepaid health

588-03372-17

20171550c1

262 clinics as defined in chapter 641, and, on behalf of their
 263 clients, third-party administrators, ~~and~~ pharmacy benefits
 264 managers, and any other third parties, as defined in s.
 265 409.901(27), which are legally responsible for payment of a
 266 claim for a health care item or service as a condition of doing
 267 business in the state or providing coverage to residents of this
 268 state, shall provide such records and information as are
 269 necessary to accomplish the purpose of this section, unless such
 270 requirement results in an unreasonable burden.

271 (b) An entity must respond to a request for payment with
 272 payment on the claim, a written request for additional
 273 information with which to process the claim, or a written reason
 274 for denial of the claim within 90 working days after receipt of
 275 written proof of loss or claim for payment for a health care
 276 item or service provided to a Medicaid recipient who is covered
 277 by the entity. Failure to pay or deny a claim within 140 days
 278 after receipt of the claim creates an uncontestable obligation
 279 to pay the claim.

280 ~~(a) The director of the agency and the Director of the~~
 281 ~~Office of Insurance Regulation of the Financial Services~~
 282 ~~Commission shall enter into a cooperative agreement for~~
 283 ~~requesting and obtaining information necessary to effect the~~
 284 ~~purpose and objective of this section.~~

285 ~~1. The agency shall request only that information necessary~~
 286 ~~to determine whether health insurance as defined pursuant to s.~~
 287 ~~624.603, or those health services provided pursuant to chapter~~
 288 ~~641, could be, should be, or have been claimed and paid with~~
 289 ~~respect to items of medical care and services furnished to any~~
 290 ~~person eligible for services under this section.~~

588-03372-17

20171550c1

2. ~~All information obtained pursuant to subparagraph 1. is confidential and exempt from s. 119.07(1). The agency shall provide the information obtained pursuant to subparagraph 1. to the Department of Revenue for purposes of administering the state Title IV-D program. The agency and the Department of Revenue shall enter into a cooperative agreement for purposes of implementing this requirement.~~

3. ~~The cooperative agreement or rules adopted under this subsection may include financial arrangements to reimburse the reporting entities for reasonable costs or a portion thereof incurred in furnishing the requested information. Neither the cooperative agreement nor the rules shall require the automation of manual processes to provide the requested information.~~

~~(b) The agency and the Financial Services Commission jointly shall adopt rules for the development and administration of the cooperative agreement. The rules shall include the following:~~

~~1. A method for identifying those entities subject to furnishing information under the cooperative agreement.~~

~~2. A method for furnishing requested information.~~

~~3. Procedures for requesting exemption from the cooperative agreement based on an unreasonable burden to the reporting entity.~~

Section 4. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1598 (614458)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Pre - K- 12 Education); Education Committee; and Senators Brandes and Perry

SUBJECT: Education

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Benvenisty</u>	<u>Graf</u>	<u>ED</u>	Fav/CS
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Fav/CS
3.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1598 establishes the Schools of Excellence Program to provide administrative flexibility to the state's top schools to enhance student learning. Additionally, the bill:

- Renames the current professional development certification and education competency program as the comprehensive teacher mentorship certification program with some modifications.
- Modifies the School Professional Development Act to include specified training relating to the comprehensive teacher mentorship certification program.
- Authorizes the Department of Corrections to enter into a contract with a charter school authorized to operate pursuant to law to provide education services for the Correctional Education Program.

The bill does not impact state revenues or expenditures.

The bill takes effect July 1, 2017.

II. Present Situation:

School Grades

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.¹ School grades are also used to determine whether a school must select or implement a turnaround option² or whether a school is eligible for school recognition funds as appropriated by the Legislature.³

The annual reports must identify schools as having one of the following grades:⁴

- "A," for schools making excellent progress – 62% or higher of total points
- "B," for schools making above average progress – 54% to 61% of total points
- "C," for schools making satisfactory progress – 41% to 53% of total points
- "D," for schools making less than satisfactory progress – 32% to 40% of total points
- "F," for schools failing to make adequate progress – 31% or less of total points

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. Middle and high school models include additional components beyond the basic model.⁵ Combination school models include the additional components for the grades served (e.g., a school serving grades K through 12 would include the additional components for the middle and high school models).

Principal Autonomy Pilot Program Initiative

In 2016, the Legislature established the Principal Autonomy Pilot Program Initiative (PAPPI) within the Florida Department of Education (DOE) to provide the principal of a participating school with increased autonomy and authority regarding allocation of resources and staffing to improve student achievement and school management.⁶ A participating school must have received at least two school grades of "D" or "F" during the previous three school years, and a participating principal must have earned a highly effective rating on the prior year's performance evaluation.⁷ The program exempts participating schools from the K-20 Education Code and state board rules implementing such provisions, with some exceptions.⁸ In addition, a principal at a participating school may select qualified instructional personnel for placement at the school and refuse placement or transfer of instructional personnel by the district school superintendent, in any case.⁹ The principal also has greater budgeting authority to allocate resources to help improve student achievement.¹⁰

¹ Section 1008.34(1), F.S. If there are fewer than 10 eligible students with data for a component, the component is not included in the calculation. Section 1008.34(3)(a), F.S.

² See s. 1008.33(4), F.S.

³ See s. 1008.26, F.S.

⁴ Section 1008.34(2), F.S.; Rule 6A-1.09981(4)(d), F.A.C.

⁵ See s. 1008.34(3)(b), F.S.; Rule 6A-1.09981(4)(a)-(c), F.A.C.

⁶ Chapter 2016-223, L.O.F. *Codified at* ss. 1012.28(8), and 1011.6202, F.S.

⁷ Section 1011.6202(2)(a)1. and 2., F.S.

⁸ See s. 1011.6202(3), F.S.

⁹ Section 1012.28(8)(a), F.S.

¹⁰ Section 1012.28(8)(b), F.S.

Educator Certification

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the DOE.¹¹

Certification requirements are established to assure that educational personnel in public schools possess appropriate skills in reading, writing, and mathematics, and adequate pedagogical knowledge, including the use of technology to enhance student learning, and relevant subject matter competence to demonstrate an acceptable level of professional performance.¹²

Types of Educator Certificates

The DOE identifies appropriate educator certification for the instruction of specified courses in an annual publication of a directory of course code numbers for all programs and courses funded through the Florida Education Finance Program.¹³

The DOE issues three types of educator certificates:¹⁴

- A professional certificate is the highest type of full-time certificate issued. The professional certificate is a 5-year renewable certificate.¹⁵
- A temporary certificate is a 3-year nonrenewable certificate issued to an applicant who does not qualify for a professional certificate.¹⁶
- An Athletic Coaching certificate covers a full-time or part-time individual who is employed as an athletic coach in any public school in any district of the state.¹⁷

Eligibility Criteria for Educator Certification

To be eligible to seek a Florida educator's certificate, an individual must:¹⁸

- Be at least 18 years of age.
- File an affidavit to uphold the principles incorporated in the Constitution of the United States and the Constitution of the State of Florida and that the information provided in the application is true, accurate, and complete.
- Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, or a nonaccredited institution of higher learning that the DOE has identified as having a quality program resulting in a bachelor's degree, or higher. Each applicant seeking initial certification must have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study.
- Submit to a background screening in accordance with Florida law.
- Be of good moral character.
- Be competent and capable of performing the duties, functions, and responsibilities of an educator.

¹¹ Sections 1012.55(1) and 1002.33(12)(f), F.S.

¹² Section 1012.54, F.S.

¹³ Section 1012.55(1)(c), F.S.

¹⁴ Section 1012.55, F.S.

¹⁵ Section 1012.56(1)-(3) and (5), (6)-(7), F.S.

¹⁶ Section 1012.56(7)(b), F.S.; Rule 6A-4.004(1), F.A.C.

¹⁷ Section 1012.55(2)(a), F.S.

¹⁸ Section 1012.56(2)(a)-(i), F.S.

- Demonstrate mastery of general knowledge, subject area knowledge, and professional preparation and education competence.

Professional Development Certification and Education Competency Program

Florida law authorizes a school district to provide a cohesive competency-based professional development certification and education competency program by which members of a school district's instructional staff may satisfy the mastery of professional preparation and education competence requirements specified in statute and rules of the State Board of Education (SBE).¹⁹ Participants in this program must hold a state-issued temporary certificate.²⁰ A school district that implements the program must provide a competency-based certification developed by the DOE or developed by the district and approved by the DOE.²¹

Renewal of Professional Certificates

All professional certificates, except a nonrenewable professional certificate, must be renewed every five years.²² In order to qualify for renewal, the applicant must earn at least 6 college credits or 120 inservice (professional development) points during the 5-year cycle.²³ At least 3 college credits or 60 inservice points must be earned in each subject area for which renewal is sought.²⁴ Credits or inservice points may also be earned in courses in clinical educator training, literacy and computational skills acquisition, exceptional student education, child development, drug abuse, child abuse, limited English proficiency, dropout prevention, and other topics.²⁵ Applicants for renewal of a professional certificate must earn at least one college credit or the equivalent amount of inservice points in the area of instruction for teaching students with disabilities.²⁶

School Community Professional Development Act

Florida law requires the DOE, public postsecondary education institutions public school districts, state education foundations, consortia, and professional organizations to work collaboratively to establish a coordinated system of professional development.²⁷ The purpose of this system is to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.²⁸

¹⁹ Section 1012.56(8)(a), F.S.

²⁰ *Id.*

²¹ Section 1012.56(8)(a), F.S.

²² Section 1012.585(2)(a), F.S.

²³ Section 1012.585(3)(a), F.S. Applicants may combine college credits and inservice points to meet this requirement. One semester hour of college credit is equivalent to 20 inservice points. Rule 6A-4.0051(1)(a)2., F.A.C. College credits must be earned at an accredited or state board-approved institution. Inservice points must be earned through participation in state board-approved school district inservice activities. Rule 6A-4.0051(1)(a), F.A.C.; see rule 6A-4.003(1) and (2), F.A.C. (list of approved accrediting agencies and guidelines for nonaccredited approved institutions).

²⁴ Section 1012.585(3)(a), F.S.

²⁵ *Id.*

²⁶ Section 1012.585(4), F.S. This required training may not add to the total hours required by the DOE for continuing education or inservice training. *Id.*

²⁷ Section 1012.98(1), F.S.

²⁸ Section 1012.98(1), F.S.

Education for State Prisoners

Florida law establishes under the Department of Corrections (DOC) a Correctional Education Program, which must be composed of the educational facilities and services of all institutions, and facilities housing inmates operated by the DOC and must be supervised by the DOC.²⁹ Florida law prohibits the expenditure of state funds provided for postsecondary workforce programs on the education of state and federal inmates.³⁰

III. Effect of Proposed Changes:

The bill establishes the Schools of Excellence Program to provide administrative flexibility to the state's top schools to enhance student learning. Additionally, the bill:

- Renames the current professional development certification and education competency program as the comprehensive teacher mentorship certification program.
- Modifies the School Professional Development Act to include specified training relating to the comprehensive teacher mentorship certification program.

Schools of Excellence (Sections 2, 4, and 6)

Section 2 establishes the Schools of Excellence Program to provide administrative flexibility to the state's top schools and requires the State Board of Education to designate a school as a School of Excellence if the school's percentage of possible points earned in its school grades calculation is in the 80th percentile or higher for schools within the same grade group (elementary schools, middle schools, high schools, or combination schools) for 2 of the last 3 school years. In order to qualify, the school must have data for each applicable school grade component.

A school retains its designation as a School of Excellence for up to 3 years so long as it does not receive a school grade lower than a "B" during that span. The school may renew its designation for another 3 years if it remains in the 80th percentile or higher for 2 of the 3 years and does not receive a grade lower than a "B" in any of the years. A School of Excellence that receives a grade lower than "B" may not continue to be designated as a School of Excellence and loses its administrative flexibility during the remainder of the 3-year period.

Section 2 provides the following administrative flexibilities to a School of Excellence:

- Exemption from any provision in law or rule that expressly requires a minimum period of daily or weekly instruction in a specified subject area.
- Principal autonomy under the Principal Autonomy Pilot Project Initiative (PAPPI).
- For instructional personnel, the substitution of 1 school year of employment at a School of Excellence for 20 inservice points toward the renewal of a professional certificate, up to 60 inservice points in a 5-year cycle.
- Exemption from district-set starting and stopping times for the school day.

Section 4 grants to a principal newly assigned to a school with a school grade of "D" or "F" additional authority and responsibilities similar to those granted to principals at Schools of

²⁹ Section 944.801(1), F.S.

³⁰ Section 1011.80(7) F.S.

Excellence and at schools participating in the PAPPI. This section authorizes a school district to revoke the principal's additional authority after the school year following the first school year the school achieves a school grade of "C" or higher. As such, the bill may provide principals with greater autonomy to determine the best approach to improve student performance at that school.

Comprehensive Teacher Mentorship Certification Program (Section 5 and 7)

Section 5 changes the name of the professional development certification and education competency program to the comprehensive teacher mentorship certification program.

Section 5 requires the Florida Department of Education (DOE) to issue a professional certificate to a temporary certificate holder who meets the requirements for a professional certificate enumerated above, is rated highly effective under the district's teacher evaluation system, and

- Completes a comprehensive teacher mentorship certification, or
- Enrolls in a state-approved teacher preparation program or a comprehensive teacher mentorship certification program within 90 days after the issuance of a temporary certificate as an acceptable means of demonstrating mastery of professional preparation and education competence to satisfy educator certification requirements.

As such, section 5 provides that an individual with a temporary certificate is not required to take or achieve a passing score on the professional education competency examination to be awarded a professional certificate.

Section 5 requires a comprehensive teacher mentorship certification program to include a mentorship and induction component, which must include, at minimum, weekly opportunities for mentoring and induction activities. Mentoring and induction activities include, common planning time, ongoing professional development targeted to a teacher's needs, co-teaching experiences, and reflection and follow-up discussions. A teacher selected to serve as a peer mentor is required under the bill to complete specialized training in clinical supervision and participate in ongoing mentor training. Section 7 requires this training be provided under the School Community Professional Development Act.

The DOE is directed to adopt standards for the approval of district developed comprehensive teacher mentorship certification programs, including standards for the teacher mentorship and induction component, by December 31, 2017. The standards for the teacher mentorship and induction component must include:

- Program administration and evaluation;
- Mentor roles, selection, and training;
- Beginning teacher assessment and professional development; and
- Teacher content knowledge and practices aligned to the Florida Educator Accomplished Practices.

Accordingly, this program may ease the pathway to teacher certification for temporary certificate holders and may help school districts recruit and retain teachers.

Education for State Prisoners (Sections 1 and 3)

Section 1 amends s. 944.801, F.S. to authorize the Department of Corrections (DOC) to enter into a contract with a charter school, authorized to operate as part of the state's program of public

education, to provide education services for the Correctional Education Program. Accordingly, such contracts may provide the DOC with another method to offer education services to state prisoners. The bill does not address funding for the delivery of education services by the charter schools.

Section 3 amends s. 1011.80, F.S., to remove the prohibition on expending state funds for postsecondary workforce programs for the education of state and federal inmates.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the Florida Department of Education (DOE), this bill may save professional certificate applicants by not requiring them to enroll in additional college coursework or take the professional education competency examination to be awarded a professional certificate.³¹

C. Government Sector Impact:

According to the DOE, implementation of the bill may require additional staff time to review, approve, and monitor compliance with the statutory requirements for the Professional Development Certification and Education Competency programs, as well as revision of school district professional development systems.³² These additional requirements should be absorbed within existing agency resources.

³¹ Telephone Interview with Government Relations Staff, Florida Department of Education (March 30, 2017).

³² *Id.*

The bill removes the prohibition on expending state postsecondary workforce funds for the education of state and federal inmates. Accordingly, career and technical centers could choose to expend state funds on educating state and federal inmates. The cost of educating these inmates is indeterminate as it would remain a career and technical center's choice whether to engage in this practice.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 944.801, 1012.28, 1012.56, 1012.585, and 1012.98.

This bill creates the following sections of the Florida Statutes: 1003.631 and 1013.29.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Higher Education on April 18, 2017:

The committee substitute:

- Authorizes enrollment in a state-approved teacher preparation program or a comprehensive teacher mentorship certification program within 90 days after the issuance of a temporary certificate as an acceptable means of demonstrating mastery of professional preparation and education competence to satisfy educator certification requirements.
- Specifies that an applicant whose temporary certificate has been revoked due to his or her failure to enroll in a teacher preparation program or a comprehensive teacher mentorship certification program must be enrolled in such program before the department may issue an applicant a new temporary certificate. Additionally, an applicant who was enrolled in a teacher preparation program or a comprehensive teacher mentorship certification program, but is no longer enrolled in the program, has up to 30 days to reenroll or his or her temporary certificate must be revoked.
- Removes the prohibition on expending state funds for postsecondary workforce programs for the education of state and federal inmates.
- Removes authorization for a county to allow high school educational facilities (including charter school educational facilities) to be located on a public or private postsecondary institution campus.

CS by Education on April 3, 2017:

The committee substitute adds provisions to the bill to:

- Authorize the Department of Corrections to enter into a contract with a charter school authorized to operate pursuant to law to provide education services for the Correctional Education Program.
- Specify that a county in which a public or private postsecondary institution is located may authorize a public high school educational facility, including a charter school educational facility, which meets statutory requirements to be located on the postsecondary institution's campus.

B. Amendments:

None.



852502

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 110 - 577

and insert:

Section 3. Subsection (8) of section 1012.28, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

1012.28 Public school personnel; duties of school principals.—

(8) The principal of a School of Excellence or a school



852502

participating in the Principal Autonomy Pilot Program Initiative under s. 1011.6202 has the following additional authority and responsibilities:

(a) In addition to the authority provided in subsection (6), the authority to select qualified instructional personnel for placement or to refuse to accept the placement or transfer of instructional personnel by the district school superintendent. Placement of instructional personnel at a participating school in a participating school district does not affect the employee's status as a school district employee.

(b) The authority to deploy financial resources to school programs at the principal's discretion to help improve student achievement, as defined in s. 1008.34(1), and meet performance goals identified in the principal autonomy proposal submitted pursuant to s. 1011.6202.

(c) To annually provide to the district school superintendent and the district school board a budget for the operation of the participating school that identifies how funds provided pursuant to s. 1011.69(2) are allocated. The school district shall include the budget in the annual report provided to the State Board of Education pursuant to s. 1011.6202(6).

(9) A school district must provide a principal newly assigned to a school with a school grade of "D" or "F" under s. 1008.34 with the additional authority and responsibilities provided in subsection (8). The district may revoke the principal's additional authority and responsibilities under this subsection after the school year following the first school year the school achieves a school grade of "C" or higher.

Section 4. Subsection (1) of section 1012.56, Florida



852502

Statutes, is amended, paragraph (i) is added to subsection (6) of that section, subsection (7) and paragraph (a) of subsection (8) of that section are amended, present paragraph (c) of subsection (8) of that section is redesignated as paragraph (d), and a new paragraph (c) is added to subsection (8) of that section, to read:

1012.56 Educator certification requirements.—

(1) APPLICATION.—Each person seeking certification pursuant to this chapter shall submit a completed application containing the applicant's social security number to the Department of Education and remit the fee required pursuant to s. 1012.59 and rules of the State Board of Education. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement is limited to the purpose of administration of the Title IV-D program of the Social Security Act for child support enforcement.

(a) Pursuant to s. 120.60, the department shall issue within 90 calendar days after the stamped receipted date of the completed application.

~~(a) If the applicant meets the requirements,~~ a professional certificate to a qualifying applicant covering the classification, level, and area for which the applicant is deemed qualified and a document explaining the requirements for renewal of the professional certificate.

(b) The department shall issue a temporary certificate to a qualifying applicant within 14 calendar days after receipt of a



852502

request from ~~if the applicant meets the requirements and if~~
~~requested by~~ an employing school district or an employing
private school with a professional education competence
demonstration program pursuant to paragraphs (6)(f) and (8)(b).
~~The,~~ a temporary certificate must cover ~~covering~~ the
classification, level, and area for which the applicant is
deemed qualified. The department shall electronically notify the
applicant's employing school district or employing private
school that the temporary certificate has been issued and
provide the applicant an official statement of status of
eligibility at the time the certificate is issued. ~~and an~~
~~official statement of status of eligibility; or~~

(c) Pursuant to s. 120.60, the department shall issue
within 90 calendar days after the stamped receipted date of the
completed application, if an applicant does not meet the
requirements for either certificate, an official statement of
status of eligibility.

The statement of status of eligibility must be provided
electronically and must advise the applicant of any
qualifications that must be completed to qualify for
certification. Each method by which an applicant can complete
the qualifications for a professional certificate must be
included in the statement of status of eligibility. Each
statement of status of eligibility is valid for 3 years after
its date of issuance, except as provided in paragraph (2)(d).

(6) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION
COMPETENCE.—Acceptable means of demonstrating mastery of
professional preparation and education competence are:



852502

(i) Enrollment in a state-approved teacher preparation program or a comprehensive teacher mentorship certification program within 90 days after the issuance of a temporary certificate.

1. An applicant whose temporary certificate has been revoked due to his or her failure to enroll in a teacher preparation program or a comprehensive teacher mentorship certification program must be enrolled in such program before the department may issue the applicant a new temporary certificate.

2. An applicant who was enrolled in a teacher preparation program or a comprehensive teacher mentorship certification program but is no longer enrolled in the program has 30 days to reenroll or his or her temporary certificate shall be revoked.

The State Board of Education shall adopt rules to implement this subsection by December 31, 2014, including rules to approve specific teacher preparation programs that are not identified in this subsection which may be used to meet requirements for mastery of professional preparation and education competence.

(7) TYPES AND TERMS OF CERTIFICATION.—

(a) The Department of Education shall issue a professional certificate for a period not to exceed 5 years to any applicant who fulfills one of the following:

1. Meets all the requirements outlined in subsection (2).

2. ~~or~~ For a professional certificate covering grades 6 through 12, ~~any applicant who:~~

a. ~~1.~~ Meets the requirements of paragraphs (2) (a) - (h).

b. ~~2.~~ Holds a master's or higher degree in the area of



852502

science, technology, engineering, or mathematics.

~~c.3.~~ Teaches a high school course in the subject of the advanced degree.

~~d.4.~~ Is rated highly effective as determined by the teacher's performance evaluation under s. 1012.34, based in part on student performance as measured by a statewide, standardized assessment or an Advanced Placement, Advanced International Certificate of Education, or International Baccalaureate examination.

~~e.5.~~ Achieves a passing score on the Florida professional education competency examination required by state board rule.

3. Meets the requirements of paragraphs (2)(a)-(h) and completes a professional preparation and education competence program approved by the department pursuant to paragraph (8)(c). An applicant who completes the program and is rated highly effective as determined by his or her performance evaluation under s. 1012.34 is not required to take or achieve a passing score on the professional education competency examination in order to be awarded a professional certificate.

(b) The department shall issue a temporary certificate to any applicant who completes the requirements outlined in paragraphs (2)(a)-(f) and completes the subject area content requirements specified in state board rule or demonstrates mastery of subject area knowledge pursuant to subsection (5) and holds an accredited degree or a degree approved by the Department of Education at the level required for the subject area specialization in state board rule.

(c) The department shall issue one nonrenewable 2-year temporary certificate and one nonrenewable 5-year professional



852502

certificate to a qualified applicant who holds a bachelor's degree in the area of speech-language impairment to allow for completion of a master's degree program in speech-language impairment.

Each temporary certificate is valid for 3 school fiscal years and is nonrenewable. However, the requirement in paragraph (2)(g) must be met within 1 calendar year of the date of employment under the temporary certificate. Individuals who are employed under contract at the end of the 1 calendar year time period may continue to be employed through the end of the school year in which they have been contracted. A school district shall not employ, or continue the employment of, an individual in a position for which a temporary certificate is required beyond this time period if the individual has not met the requirement of paragraph (2)(g). At least 1 year before an individual's temporary certificate is set to expire, the department shall electronically notify the individual of the date on which his or her certificate will expire and provide a list of each method by which the qualifications for a professional certificate can be completed. The State Board of Education shall adopt rules to allow the department to extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including the requirement in paragraph (2)(g), were not completed due to the serious illness or injury of the applicant or other extraordinary extenuating circumstances or for 1 year if the temporary certificate holder is rated effective or highly effective based solely on a student learning growth formula approved by the Commissioner of



852502

Education pursuant to s. 1012.34(8). The department shall reissue the temporary certificate for 2 additional years upon approval by the Commissioner of Education. A written request for reissuance of the certificate shall be submitted by the district school superintendent, the governing authority of a university lab school, the governing authority of a state-supported school, or the governing authority of a private school.

(8) PROFESSIONAL DEVELOPMENT CERTIFICATION AND EDUCATION COMPETENCY PROGRAM.—

(a) The Department of Education shall develop and each school district, charter school, and charter management organization may provide a cohesive competency-based professional development certification and education competency program by which ~~members of a school district's~~ instructional staff may satisfy the mastery of professional preparation and education competence requirements specified in subsection (6) and rules of the State Board of Education. Participants must hold a state-issued temporary certificate. A school district, charter school, or charter management organization that implements the program shall provide a competency-based certification program developed by the Department of Education or developed by the district, charter school, or charter management organization and approved by the Department of Education. The program shall include the following:

1. A minimum period of initial preparation before assuming duties as the teacher of record.

2. An option for collaboration with ~~between school districts and~~ other supporting agencies or educational entities for implementation.



852502

214 3. A teacher mentorship and induction ~~An experienced peer-~~
215 ~~mentor~~ component.

216 a. Each individual selected by the district as a ~~peer~~
217 ~~mentor~~:

218 (I) Must hold a valid professional certificate issued
219 pursuant to this section;~~;~~

220 (II) Must have earned at least 3 years of teaching
221 experience in prekindergarten through grade 12;~~;~~ and

222 (III) Must have completed specialized training in clinical
223 supervision and participate in ongoing mentor training provided
224 through the coordinated system of professional development under
225 s. 1012.98(3)(e);

226 (IV) Must have earned an effective or highly effective
227 rating on the prior year's performance evaluation under s.
228 1012.34; and

229 (V) May ~~or~~ be a peer evaluator under the district's
230 evaluation system approved under s. 1012.34.

231 b. The teacher mentorship and induction component must, at
232 a minimum, provide weekly opportunities for mentoring and
233 induction activities, including common planning time, ongoing
234 professional development targeted to a teacher's needs,
235 opportunities for a teacher to observe other teachers, co-
236 teaching experiences, and reflection and followup discussions.
237 Mentorship and induction activities must be provided for an
238 applicant's first year in the program and may be provided until
239 the applicant attains his or her professional certificate in
240 accordance with this section. A principal who is rated highly
241 effective as determined by his or her performance evaluation
242 under s. 1012.34 must be provided flexibility in selecting



852502

professional development activities under this paragraph;
however, the activities must be approved by the department as
part of the district's, charter school's, or charter management
organization's program.

4. An assessment of teaching performance aligned to the
district's system for personnel evaluation under s. 1012.34
which provides for:

a. An initial evaluation of each educator's competencies to
determine an appropriate individualized professional development
plan.

b. A summative evaluation to assure successful completion
of the program.

5. Professional education preparation content knowledge,
which must be included in the mentoring and induction activities
under subparagraph 3., that includes, but is not limited to, the
following:

a. The state standards provided under s. 1003.41, including
scientifically based reading instruction, content literacy, and
mathematical practices, for each subject identified on the
temporary certificate.

b. The educator-accomplished practices approved by the
state board.

c. A variety of data indicators for monitoring student
progress.

d. Methodologies for teaching students with disabilities.

e. Methodologies for teaching students of limited English
proficiency appropriate for each subject area identified on the
temporary certificate.

f. Techniques and strategies for operationalizing the role



852502

of the teacher in assuring a safe learning environment for students.

6. Required achievement of passing scores on the subject area and professional education competency examination required by State Board of Education rule. Mastery of general knowledge must be demonstrated as described in subsection (3).

(c) No later than December 31, 2017, the department shall adopt standards for the approval of professional development certification and education competency programs, including standards for the teacher mentorship and induction component, under paragraph (a). Standards for the teacher mentorship and induction component must include program administration and evaluation; mentor roles, selection, and training; beginning teacher assessment and professional development; and teacher content knowledge and practices aligned to the Florida Educator Accomplished Practices. Each school district or charter school with a program under this subsection must submit its program, including the teacher mentorship and induction component, to the department for approval no later than June 30, 2018. After December 31, 2018, a teacher may not satisfy requirements for a professional certificate through a professional development certification and education competency program under paragraph (a) unless the program has been approved by the department pursuant to this paragraph.

Section 5. Paragraph (a) of subsection (3) of section 1012.585, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

1012.585 Process for renewal of professional certificates.—

(3) For the renewal of a professional certificate, the



852502

following requirements must be met:

(a) The applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof. For each area of specialization to be retained on a certificate, the applicant must earn at least 3 of the required credit hours or equivalent inservice points in the specialization area. Education in "clinical educator" training pursuant to s. 1004.04(5)(b); participation in mentorship and induction activities, including as a mentor, pursuant to s. 1012.56(8)(a); and credits or points that provide training in the area of scientifically researched, knowledge-based reading literacy, including explicit, systematic, and sequential approaches to reading instruction, developing phonemic awareness, and implementing multisensory intervention strategies, and computational skills acquisition, exceptional student education, normal child development, and the disorders of development may be applied toward any specialization area. Credits or points that provide training in the areas of drug abuse, child abuse and neglect, strategies in teaching students having limited proficiency in English, or dropout prevention, or training in areas identified in the educational goals and performance standards adopted pursuant to ss. 1000.03(5) and 1008.345 may be applied toward any specialization area, except specialization areas identified by State Board of Education rule that include reading instruction or intervention for any students in kindergarten through grade 6. Credits or points earned through approved summer institutes may be applied toward the fulfillment of these requirements. Inservice points may also be earned by participation in professional growth components approved by the State Board of



852502

Education and specified pursuant to s. 1012.98 in the district's approved master plan for inservice educational training; however, such points may not be used to satisfy the specialization requirements of this paragraph, including, but not limited to, serving as a trainer in an approved teacher training activity, serving on an instructional materials committee or a state board or commission that deals with educational issues, or serving on an advisory council created pursuant to s. 1001.452.

(f) An applicant for renewal of a professional certificate in any area of certification identified by State Board of Education rule that includes reading instruction or intervention for any students in kindergarten through grade 6, with a beginning validity date of July 1, 2020, or thereafter, must earn a minimum of two college credits or the equivalent inservice points in the use of explicit, systematic, and sequential approaches to reading instruction, developing phonemic awareness, and implementing multisensory intervention strategies. Such training must be provided by teacher preparation programs under s. 1004.04 or s. 1004.85 or approved school district professional development systems under s. 1012.98. The requirements in this paragraph may not add to the total hours required by the department for continuing education or inservice training.

Section 6. Subsection (1) of section 1012.586, Florida Statutes, is amended to read:

1012.586 Additions or changes to certificates; duplicate certificates.—A school district may process via a Department of Education website certificates for the following applications of



852502

public school employees:

(1) Addition of a subject coverage or endorsement to a valid Florida certificate on the basis of the completion of the appropriate subject area testing requirements of s. 1012.56(5)(a) or the completion of the requirements of an approved school district program or the inservice components for an endorsement.

(a) To reduce duplication, the department may recommend the consolidation of endorsement areas and requirements to the State Board of Education.

(b) By July 1, 2018, and at least once every 5 years thereafter, the department shall conduct a review of existing subject coverage or endorsement requirements in the elementary, reading, and exceptional student educational areas. The review must include reciprocity requirements for out-of-state certificates and requirements for demonstrating competency in the reading instruction professional development topics listed in s. 1012.98(4)(b)10. At the conclusion of each review, the department shall recommend to the state board changes to the subject coverage or endorsement requirements based upon any identified instruction or intervention strategies proven to improve student reading performance. This paragraph does not authorize the state board to establish any new certification subject coverage.

The employing school district shall charge the employee a fee not to exceed the amount charged by the Department of Education for such services. Each district school board shall retain a portion of the fee as defined in the rules of the State Board of



852502

Education. The portion sent to the department shall be used for maintenance of the technology system, the web application, and posting and mailing of the certificate.

Section 7. Paragraph (e) is added to subsection (3) of section 1012.98, Florida Statutes, and paragraph (b) of subsection (4) and subsections (10) and (11) are amended, to read:

1012.98 School Community Professional Development Act.—

(3) The activities designed to implement this section must:

(e) Provide training to teacher mentors as part of the professional development certification and education competency program under s. 1012.56(8)(a). The training must include components on teacher development, peer coaching, time management, and other related topics as determined by the Department of Education.

(4) The Department of Education, school districts, schools, Florida College System institutions, and state universities share the responsibilities described in this section. These responsibilities include the following:

(b) Each school district shall develop a professional development system as specified in subsection (3). The system shall be developed in consultation with teachers, teacher-educators of Florida College System institutions and state universities, business and community representatives, and local education foundations, consortia, and professional organizations. The professional development system must:

1. Be approved by the department. All substantial revisions to the system shall be submitted to the department for review for continued approval.



852502

2. Be based on analyses of student achievement data and instructional strategies and methods that support rigorous, relevant, and challenging curricula for all students. Schools and districts, in developing and refining the professional development system, shall also review and monitor school discipline data; school environment surveys; assessments of parental satisfaction; performance appraisal data of teachers, managers, and administrative personnel; and other performance indicators to identify school and student needs that can be met by improved professional performance.

3. Provide inservice activities coupled with followup support appropriate to accomplish district-level and school-level improvement goals and standards. The inservice activities for instructional personnel shall focus on analysis of student achievement data, ongoing formal and informal assessments of student achievement, identification and use of enhanced and differentiated instructional strategies that emphasize rigor, relevance, and reading in the content areas, enhancement of subject content expertise, integrated use of classroom technology that enhances teaching and learning, classroom management, parent involvement, and school safety.

4. Provide inservice activities and support targeted to the individual needs of new teachers participating in the professional development certification and education competency program under s. 1012.56(8)(a).

5.4. Include a master plan for inservice activities, pursuant to rules of the State Board of Education, for all district employees from all fund sources. The master plan shall be updated annually by September 1, must be based on input from



852502

teachers and district and school instructional leaders, and must use the latest available student achievement data and research to enhance rigor and relevance in the classroom. Each district inservice plan must be aligned to and support the school-based inservice plans and school improvement plans pursuant to s. 1001.42(18). Each district inservice plan must provide a description of the training that middle grades instructional personnel and school administrators receive on the district's code of student conduct adopted pursuant to s. 1006.07; integrated digital instruction and competency-based instruction and CAPE Digital Tool certificates and CAPE industry certifications; classroom management; student behavior and interaction; extended learning opportunities for students; and instructional leadership. District plans must be approved by the district school board annually in order to ensure compliance with subsection (1) and to allow for dissemination of research-based best practices to other districts. District school boards must submit verification of their approval to the Commissioner of Education no later than October 1, annually. Each school principal may establish and maintain an individual professional development plan for each instructional employee assigned to the school as a seamless component to the school improvement plans developed pursuant to s. 1001.42(18). An individual professional development plan must be related to specific performance data for the students to whom the teacher is assigned, define the inservice objectives and specific measurable improvements expected in student performance as a result of the inservice activity, and include an evaluation component that determines the effectiveness of the professional development plan.



852502

~~6.5.~~ Include inservice activities for school administrative personnel that address updated skills necessary for instructional leadership and effective school management pursuant to s. 1012.986.

~~7.6.~~ Provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs.

~~8.7.~~ Provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs.

~~9.8.~~ Provide for the continuous evaluation of the quality and effectiveness of professional development programs in order to eliminate ineffective programs and strategies and to expand effective ones. Evaluations must consider the impact of such activities on the performance of participating educators and their students' achievement and behavior.

~~10.9.~~ For middle grades, emphasize:

a. Interdisciplinary planning, collaboration, and instruction.

b. Alignment of curriculum and instructional materials to the state academic standards adopted pursuant to s. 1003.41.

c. Use of small learning communities; problem-solving, inquiry-driven research and analytical approaches for students; strategies and tools based on student needs; competency-based instruction; integrated digital instruction; and project-based instruction.

Each school that includes any of grades 6, 7, or 8 must include in its school improvement plan, required under s. 1001.42(18), a



852502

description of the specific strategies used by the school to implement each item listed in this subparagraph.

11. Provide training to reading coaches, classroom teachers, and school administrators in effective methods of identifying characteristics of conditions such as dyslexia and other causes of diminished phonological processing skills; incorporating instructional techniques into the general education setting which are proven to improve reading performance for all students; and using predictive and other data to make instructional decisions based on individual student needs. The training must help teachers integrate phonemic awareness; phonics, word study, and spelling; reading fluency; vocabulary, including academic vocabulary; and text comprehension strategies into an explicit, systematic, and sequential approach to reading instruction, including multisensory intervention strategies. Each district must provide all elementary grades instructional personnel access to training sufficient to meet the requirements of s. 1012.585(3)(f).

(10) For instructional personnel and administrative personnel who have been evaluated as less than effective, a district school board shall require participation in specific professional development programs as provided in subparagraph (4)(b)5. ~~(4)(b)4.~~ as part of the improvement prescription.

(11) The department shall disseminate to the school community proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and engagement, ~~and~~ meeting identified student needs, and providing effective mentorship activities to new teachers and training to teacher



852502

mentors. The methods of dissemination must include a web-based statewide performance-support system including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available technical assistance.

Section 8. Subsection (18) of section 1001.42, Florida Statutes, is amended to read:

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

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall comply with the provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and include the following:

(a) *School improvement plans*.—

1. The district school board shall annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district. If a school has a significant gap in achievement on statewide, standardized assessments administered pursuant to s. 1008.22 by one or more student subgroups, as defined in the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v)(II); has not significantly increased the



852502

percentage of students passing statewide, standardized assessments; has not significantly increased the percentage of students demonstrating Learning Gains, as defined in s. 1008.34 and as calculated under s. 1008.34(3)(b), who passed statewide, standardized assessments; or has significantly lower graduation rates for a subgroup when compared to the state's graduation rate, that school's improvement plan shall include strategies for improving these results. The state board shall adopt rules establishing thresholds and for determining compliance with this subparagraph.

2. A school that includes any of grades 6, 7, or 8 shall include annually in its school improvement plan information and data on the school's early warning system required under paragraph (b), including a list of the early warning indicators used in the system, the number of students identified by the system as exhibiting two or more early warning indicators, the number of students by grade level that exhibit each early warning indicator, and a description of all intervention strategies employed by the school to improve the academic performance of students identified by the early warning system. In addition, a school that includes any of grades 6, 7, or 8 shall describe in its school improvement plan the strategies used by the school to implement the instructional practices for middle grades emphasized by the district's professional development system pursuant to s. 1012.98(4)(b)10. ~~s. 1012.98(4)(b)9.~~

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:



852502

591 Delete lines 13 - 49
592 and insert:
593 completing a specified program; amending s. 1012.28,
594 F.S.; providing additional authority and
595 responsibilities to the principal of a School of
596 Excellence; providing that newly assigned principals
597 of certain schools must be provided specified
598 authority and responsibilities; amending s. 1012.56,
599 F.S.; requiring the Department of Education to issue a
600 temporary educator certificate within a specified
601 period; requiring the department to provide electronic
602 notice of the issuance of a temporary certificate to
603 specified entities; requiring the department to
604 provide the applicant an official statement of status
605 of eligibility upon issuance of a temporary
606 certificate; providing content requirements for the
607 statement of status of eligibility; revising the
608 criteria instructional personnel must meet to be
609 issued a professional certificate; providing that an
610 applicant for professional certification is not
611 required to take or pass a specified examination under
612 certain circumstances; requiring the department to
613 provide electronic notification of the expiration of a
614 temporary educator certificate; requiring the State
615 Board of Education to adopt rules providing for the
616 extension of a temporary educator certificate for a
617 specified period under certain circumstances;
618 authorizing charter schools and charter management
619 organizations to develop a professional development



852502

certification and education competency program;
revising program requirements; requiring the
department to adopt standards for the approval of such
programs by a specified date; providing requirements
for such standards; requiring each school district and
charter school to submit its program for approval by a
specified date; providing that certification
requirements may not be met in a program that is not
approved by the department after a specified date;
amending s. 1012.585, F.S.; revising requirements for
renewal of professional teaching certificates;
amending s. 1012.586, F.S.; authorizing the department
to recommend consolidation of endorsement areas and
requirements in order to reduce duplication in the
applications for additions of a subject coverage or
endorsement to teacher certificates; requiring the
department to review and make recommendations
regarding certain subject coverage or endorsement
requirements; providing construction; amending s.
1012.98, F.S.; revising the activities designed to
implement the School Community Professional
Development Act to include specified training relating
to a professional development certification and
education competency program; revising requirements
for school district professional development systems;
requiring the department to disseminate professional
development programs that meet specified criteria;
amending s. 1001.42, F.S.; conforming a cross-
reference; providing an



447568

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with title amendment)

Between lines 577 and 578
insert:

Section 8. Paragraph (b) of subsection (2) of section
1013.35, Florida Statutes, is amended to read:

1013.35 School district educational facilities plan;
definitions; preparation, adoption, and amendment; long-term
work programs.—

(2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL



447568

FACILITIES PLAN.—

(b) The plan must also include a financially feasible district facilities work program for a 5-year period. The work program must include:

1. A schedule of major repair and renovation projects necessary to maintain the educational facilities and ancillary facilities of the district.

2. A schedule of capital outlay projects necessary to ensure the availability of satisfactory student stations for the projected student enrollment in K-12 programs. This schedule shall consider:

a. The locations, capacities, and planned utilization rates of current educational facilities of the district. The capacity of existing satisfactory facilities, as reported in the Florida Inventory of School Houses, must be compared to the capital outlay full-time-equivalent student enrollment as determined by the department, including all enrollment used in the calculation of the distribution formula in s. 1013.64. For purposes of determining the capacity of school facilities at K-8 schools, as reported in the Florida Inventory of School Houses, a classroom housing students in kindergarten through grade 5 is considered an elementary school, and a classroom housing students in grades 6 through 8 is considered a middle school.

b. The proposed locations of planned facilities, whether those locations are consistent with the comprehensive plans of all affected local governments, and recommendations for infrastructure and other improvements to land adjacent to existing facilities. The provisions of ss. 1013.33(6), (7), and (8) and 1013.36 must be addressed for new facilities planned



447568

within the first 3 years of the work plan, as appropriate.

c. Plans for the use and location of relocatable facilities, leased facilities, and charter school facilities.

d. Plans for multitrack scheduling, grade level organization, block scheduling, or other alternatives that reduce the need for additional permanent student stations.

e. Information concerning average class size and utilization rate by grade level within the district which will result if the tentative district facilities work program is fully implemented.

f. The number and percentage of district students planned to be educated in relocatable facilities during each year of the tentative district facilities work program. For determining future needs, student capacity may not be assigned to any relocatable classroom that is scheduled for elimination or replacement with a permanent educational facility in the current year of the adopted district educational facilities plan and in the district facilities work program adopted under this section. Those relocatable classrooms clearly identified and scheduled for replacement in a school-board-adopted, financially feasible, 5-year district facilities work program shall be counted at zero capacity at the time the work program is adopted and approved by the school board. However, if the district facilities work program is changed and the relocatable classrooms are not replaced as scheduled in the work program, the classrooms must be reentered into the system and be counted at actual capacity. Relocatable classrooms may not be perpetually added to the work program or continually extended for purposes of circumventing this section. All relocatable classrooms not identified and



447568

scheduled for replacement, including those owned, lease-purchased, or leased by the school district, must be counted at actual student capacity. The district educational facilities plan must identify the number of relocatable student stations scheduled for replacement during the 5-year survey period and the total dollar amount needed for that replacement.

g. Plans for the closure of any school, including plans for disposition of the facility or usage of facility space, and anticipated revenues.

h. Projects for which capital outlay and debt service funds accruing under s. 9(d), Art. XII of the State Constitution are to be used shall be identified separately in priority order on a project priority list within the district facilities work program.

3. The projected cost for each project identified in the district facilities work program. For proposed projects for new student stations, a schedule shall be prepared comparing the planned cost and square footage for each new student station, by elementary, middle, and high school levels, to the low, average, and high cost of facilities constructed throughout the state during the most recent fiscal year for which data is available from the Department of Education.

4. A schedule of estimated capital outlay revenues from each currently approved source which is estimated to be available for expenditure on the projects included in the district facilities work program.

5. A schedule indicating which projects included in the district facilities work program will be funded from current revenues projected in subparagraph 4.



447568

6. A schedule of options for the generation of additional revenues by the district for expenditure on projects identified in the district facilities work program which are not funded under subparagraph 5. Additional anticipated revenues may include Classrooms First funds.

Section 9. Subsection (3) of section 1013.37, Florida Statutes, is amended to read:

1013.37 State uniform building code for public educational facilities construction.—

(3) REVIEW PROCEDURE; EXEMPTION.—

(a) The Commissioner of Education shall cooperate with the Florida Building Commission in addressing all questions, disputes, or interpretations involving the provisions of the Florida Building Code which govern the construction of public educational and ancillary facilities, and any objections to decisions made by the inspectors or the department must be submitted in writing.

(b) Upon request by a district school board, the commissioner shall grant an exemption from the State Requirements for Educational Facilities (SREF). A district school board must provide a comprehensive cost-benefit analysis along with its request for an exemption from the SREF. Any district school board that is granted such exemption shall continue to comply with applicable provisions of the Florida Building Code and the Florida Fire Prevention Code which relate to the construction, remodeling, and renovation of educational facilities.

Section 10. Upon the expiration and reversion of the amendments to section 1013.64, Florida Statutes, pursuant to



447568

section 36 of chapter 2016-62, Laws of Florida, paragraph (a) of subsection (3) and paragraphs (b) and (c) of subsection (6) of section 1013.64, Florida Statutes, are amended to read:

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(3)(a) Each district school board shall receive an amount from the Public Education Capital Outlay and Debt Service Trust Fund to be calculated by computing the capital outlay full-time equivalent membership as determined by the department. Such membership must include, but is not limited to:

1. K-12 students for whom the school district provides the educational facility, except hospital- and homebound part-time students; and

2. Students who are career education students, and adult disabled students and who are enrolled in school district career centers. The capital outlay full-time equivalent membership shall be determined for kindergarten through the 12th grade and for career centers by averaging the unweighted full-time equivalent student membership for the second and third surveys and comparing the results on a school-by-school basis with the Florida Inventory for School Houses. For purposes of determining the capacity of school facilities at K-8 schools, as reported in the Florida Inventory of School Houses, a classroom housing students in kindergarten through grade 5 is considered an elementary school, and a classroom housing students in grades 6 through 8 is considered a middle school. The capital outlay



447568

full-time equivalent membership by grade level organization shall be used in making the following calculations: The capital outlay full-time equivalent membership by grade level organization for the 4th prior year must be used to compute the base-year allocation. The capital outlay full-time equivalent membership by grade-level organization for the prior year must be used to compute the growth over the highest of the 3 years preceding the prior year. From the total amount appropriated by the Legislature pursuant to this subsection, 40 percent shall be allocated among the base capital outlay full-time equivalent membership and 60 percent among the growth capital outlay full-time equivalent membership. The allocation within each of these groups shall be prorated to the districts based upon each district's percentage of base and growth capital outlay full-time membership. The most recent 4-year capital outlay full-time equivalent membership data shall be used in each subsequent year's calculation for the allocation of funds pursuant to this subsection. If a change, correction, or recomputation of data during any year results in a reduction or increase of the calculated amount previously allocated to a district, the allocation to that district shall be adjusted correspondingly. If such recomputation results in an increase or decrease of the calculated amount, such additional or reduced amounts shall be added to or reduced from the district's future appropriations. However, no change, correction, or recomputation of data shall be made subsequent to 2 years following the initial annual allocation.

(6)

(b)1. A district school board may not use funds from the



447568

following sources: Public Education Capital Outlay and Debt Service Trust Fund; School District and Community College District Capital Outlay and Debt Service Trust Fund; Classrooms First Program funds provided in s. 1013.68; nonvoted 1.5-mill levy of ad valorem property taxes provided in s. 1011.71(2); Classrooms for Kids Program funds provided in s. 1013.735; District Effort Recognition Program funds provided in s. 1013.736; or High Growth District Capital Outlay Assistance Grant Program funds provided in s. 1013.738 for any new construction of educational plant space with a total cost per student station, including change orders, that equals more than:

- a. \$17,952 for an elementary school,
- b. \$19,386 for a middle school, or
- c. \$25,181 for a high school,

(January 2006) as adjusted annually to reflect increases or decreases in the Consumer Price Index.

2. School districts shall maintain accurate documentation related to the costs of all new construction of educational plant space reported to the Department of Education pursuant to paragraph (d). The Auditor General shall review the documentation maintained by the school districts and verify compliance with the limits under this paragraph during its scheduled operational audits of the school district. The department shall make the final determination on district compliance based on the recommendation of the Auditor General.

3. The Office of Economic and Demographic Research, in consultation with the department, shall conduct a study of the cost per student station amounts using the most recent available



447568

information on construction costs. In this study, the costs per student station should represent the costs of classroom construction and administrative offices as well as the supplemental costs of core facilities, including required media centers, gymnasiums, music rooms, cafeterias and their associated kitchens and food service areas, vocational areas, and other defined specialty areas, including exceptional student education areas. The study must take into account appropriate cost-effectiveness factors in school construction and should include input from industry experts. The Office of Economic and Demographic Research must provide the results of the study and recommendations on the cost per student station to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 31, 2017.

4. The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall conduct a study of the State Requirements for Education Facilities (SREF) to identify current requirements that can be eliminated or modified in order to decrease the cost of construction of educational facilities while ensuring student safety. OPPAGA must provide the results of the study, and an overall recommendation as to whether SREF should be retained, to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 31, 2017.

5. Effective July 1, 2017, in addition to the funding sources listed in subparagraph 1., a district school board may not use funds from any sources for new construction of educational plant space with a total cost per student station, including change orders, which equals more than the current



447568

adjusted amounts provided in sub-subparagraphs 1.a.-c. which shall subsequently be adjusted annually to reflect increases or decreases in the Consumer Price Index. However, if a contract has been executed for architectural and design services or for construction management services before July 1, 2017, a district school board may use funds from any source for the new construction of educational plant space and such funds are exempt from the total cost per student station requirements.

6. A district school board must not use funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any new construction of an ancillary plant that exceeds 70 percent of the average cost per square foot of new construction for all schools.

(c) Except as otherwise provided, new construction for which a contract has been executed for architectural and design services or for construction management services ~~initiated~~ by a district school board on or after July 1, 2017, may not exceed the cost per student station as provided in paragraph (b). A school district that exceeds the cost per student station provided in paragraph (b), as determined by the Auditor General, shall be subject to sanctions. If the Auditor General determines that the cost per student station overage is de minimus or due to extraordinary circumstances outside the control of the district, the sanctions shall not apply. The sanctions are as follows:

1. The school district shall be ineligible for allocations from the Public Education Capital Outlay and Debt Service Trust Fund for the next 3 years in which the school district would



447568

have received allocations had the violation not occurred.

2. The school district shall be subject to the supervision of a district capital outlay oversight committee. The oversight committee is authorized to approve all capital outlay expenditures of the school district, including new construction, renovations, and remodeling, for 3 fiscal years following the violation.

a. Each oversight committee shall be composed of the following:

(I) One appointee of the Commissioner of Education who has significant financial management, school facilities construction, or related experience.

(II) One appointee of the office of the state attorney with jurisdiction over the district.

(III) One appointee of the Chief Financial Officer who is a licensed certified public accountant.

b. An appointee to the oversight committee may not be employed by the school district; be a relative, as defined in s. 1002.33(24)(a)2., of any school district employee; or be an elected official. Each appointee must sign an affidavit attesting to these conditions and affirming that no conflict of interest exists in his or her oversight role.

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

And the title is amended as follows:

Delete line 49

and insert:

programs that meet specified criteria; amending s.

1013.35, F.S.; providing requirements for determining



447568

the capacity of facilities in certain schools as reported in the Florida Inventory of School Houses; amending s. 1013.37, F.S.; requiring the Commissioner of Education to grant an exemption from the State Requirements for Educational Facilities to a district school board under certain circumstances; requiring such district school board to comply with certain Florida Building Code and Florida Fire Prevention Code provisions; amending s. 1013.64, F.S.; authorizing a district school board to use funds from any source for the new construction of educational plant space under certain circumstances; conforming provisions to changes made by the act; providing an



671444

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Between lines 109 and 110
insert:

Section 3. Present subsection (12) of section 1008.22, Florida Statutes, is redesignated as subsection (13), and a new subsection (12) is added to that section, to read:

1008.22 Student assessment program for public schools.—
(12) PUBLICATION OF ASSESSMENTS.—To promote transparency in the statewide assessment program, the Department of Education,



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subject to appropriation, shall publish assessments on its website in accordance with this subsection.

(a) Beginning with the 2019-2020 school year, and every 3 years thereafter, the department shall publish each assessment administered under paragraph (3)(a) and subparagraph (3)(b)1., excluding retake assessments, at least once pursuant to a schedule determined by the Commissioner of Education. Each assessment, when published, must have been administered during the most recent school year.

(b) The initial publication of assessments must occur no later than June 30, 2020, and must include, at a minimum, the grade 3 ELA and mathematics assessments, the grade 10 ELA assessment, and the Algebra I EOC assessment.

(c) The department must provide materials on its website to help the public interpret assessment information published pursuant to this subsection.

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

And the title is amended as follows:

Delete line 13

and insert:

completing a specified program; amending s. 1008.22, F.S.; requiring the Department of Education to publish certain assessments on its website; providing requirements for such publication; requiring the department to provide materials regarding assessment information on its website; amending s. 1011.80,



210082

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 577 and 578

insert:

Section 8. Section 1013.101, Florida Statutes, is created to read:

1013.101 Shared-use agreements.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that greater public access to recreation and sports facilities is needed to reduce the impact of obesity, diabetes, and other



210082

chronic diseases on personal health and health care expenditures. Public schools are equipped with taxpayer-funded indoor and outdoor recreation facilities that offer easily accessible opportunities for physical activity for residents of the community. The Legislature also finds that it is the policy of the state for district school boards to allow the shared use of school buildings and property by adopting policies allowing for shared use and implementing shared-use agreements with local governmental entities and nonprofit organizations. The Legislature intends to increase the number of school districts that open their playground facilities to community use outside of school hours.

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

(a) "High-need communities" means communities in which at least 50 percent of children are eligible to receive free or reduced-price meals at the school that will be the subject of the shared-use agreement.

(b) "Shared use" means allowing access to school playground facilities by community members for recreation or another purpose of importance to the community through a shared-use agreement or a school district or school policy that opens school facilities for use by governmental or nongovernmental entities or the public.

(c) "Shared-use agreement" means a written agreement between a school district and a governmental or nongovernmental entity which defines the roles, responsibilities, terms, and conditions for community use of a school-owned facility for recreation or other purposes.

(3) PROMOTION OF COMMUNITY USE OF SHARED FACILITIES.—The



210082

department shall provide technical assistance to school districts, including, but not limited to, individualized assistance, the creation of a shared-use technical assistance toolkit containing useful information for school districts, and the development of publicly accessible online information of shared-use resources and existing shared-use agreements.

(4) DEPARTMENT RESPONSIBILITIES.—The department shall:

(a) Establish guidelines for funding eligibility consistent with this section, promote the availability of the funding statewide, provide technical assistance to applicants, evaluate applicants, determine allowable expenses, and disburse funding.

(b) Annually post on its website and report to the President of the Senate and the Speaker of the House of Representatives the expenditure of the funds used to administer this section, including the total amount of funding distributed, the school districts that received funding, the amount of funding each school district received, and the department's evaluation results.

(c) Develop an application process for school districts to receive funding. The application must require that a school district:

1. Demonstrate that it has an active partnership with a local governmental agency or nonprofit organization;

2. Agree to fully implement its shared-use project within the grant period;

3. Abide by the conditions for receiving assistance;

4. Provide the department with a copy of the school district's shared-use agreement or shared-use policy; and

5. Collect and provide data and other information required



210082

by the department for monitoring, accountability, and evaluation purposes.

(d) Give funding priority to high-need communities. In consultation with the Shared-Use Task Force, the department may establish additional criteria for funding priorities consistent with this section.

(5) REPORT.—By December 31, 2017, the department shall submit an electronic report to the President of the Senate and the Speaker of the House of Representatives on the grants that have been disbursed or could be disbursed if funding were available. The department shall submit a final report on the grant disbursements by June 30, 2018.

Section 9. Shared-Use Task Force.—The Shared-Use Task Force, a task force as defined in s. 20.03, Florida Statutes, is created within the Department of Education. The task force is created to identify barriers in creating shared-use agreements and to make recommendations to facilitate the shared use of school facilities generally and in high-need communities.

(1) The task force is composed of seven members appointed by the department, as follows:

(a) Two representatives from school districts, including one representative from school districts 1 through 33 and one representative from school districts 34 through 67;

(b) One representative from a public health department;

(c) Two representatives from community-based programs in high-need communities; and

(d) Two representatives from recreational organizations.

(2) The task force shall elect a chair and vice chair. The chair and vice chair may not be representatives from the same



210082

member category. Members of the task force shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061, Florida Statutes.

(3) The task force shall meet by teleconference or other electronic means, if possible, to reduce costs.

(4) The department shall provide the task force with staff necessary to assist the task force in the performance of its duties.

(5) The task force shall submit a report of its findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by October 1, 2017. Upon submission of the report, the task force shall expire.

(6) The State Board of Education shall adopt rules to implement and administer this section.

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

And the title is amended as follows:

Delete line 49

and insert:

programs that meet specified criteria; creating s.
1013.101, F.S.; providing legislative findings and
intent; defining terms; requiring the Department of
Education to provide specified assistance to school
districts; providing department responsibilities;
specifying funding allocation guidelines; requiring
the department to annually post information regarding
specified allocations on its website and report to the
Legislature; requiring the department to develop an
application process for school districts; requiring



210082

funding priority to be given to high-need communities;
requiring reports to the Legislature by specified
dates; creating the Shared-Use Task Force within the
department; specifying the purpose and membership of
the task force; providing requirements for electing a
task force chair and vice chair and conducting
meetings; providing that members of the task force
serve without compensation but are entitled to
reimbursement for per diem and travel expenses;
requiring the task force to meet by teleconference or
other electronic means; requiring the department to
provide the task force with necessary staff; requiring
the task force to submit a report to the Legislature
by a specified date; providing for expiration of the
task force; providing for rulemaking; providing an



614458

576-04059-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Pre-K - 12 Education)

A bill to be entitled

An act relating to education; amending s. 944.801, F.S.; authorizing the Department of Corrections to contract with charter schools to provide education services to the Correctional Education Program; creating s. 1003.631, F.S.; creating the Schools of Excellence Program; providing for designation as a School of Excellence; providing requirements for a School of Excellence; providing for redesignation; authorizing Schools of Excellence to have specified administrative flexibilities; authorizing certain teachers to earn a professional certificate by completing a specified program; amending s. 1011.80, F.S.; removing a provision prohibiting state funds for the operation of postsecondary workforce programs from being used for the education of state or federal inmates; amending s. 1012.28, F.S.; providing additional authority and responsibilities to the principal of a School of Excellence; providing that newly assigned principals of certain schools must be provided specified authority and responsibilities; amending s. 1012.56, F.S.; providing that successful completion of a specified program demonstrates mastery of certain skills; revising the criteria instructional personnel must meet to be issued a professional certificate; providing that an applicant for professional certification is not required to take or



614458

576-04059-17

pass a specified examination under certain circumstances; providing requirements for the development and implementation of a comprehensive teacher mentorship certification program; providing the purpose of the program; requiring the Department of Education to adopt standards for the approval of district-developed programs; providing requirements for such standards; providing program requirements; providing peer mentor requirements; amending s. 1012.585, F.S.; providing that instructional personnel may substitute 1 year of specified employment for a certain amount of inservice points within a certain cycle for certificate renewal; providing such employment does not satisfy a specified credit hour requirement; amending s. 1012.98, F.S.; revising the activities designed to implement the School Community Professional Development Act to include specified training relating to the comprehensive teacher mentorship program; revising requirements for school district professional development systems; requiring the department to disseminate professional development programs that meet specified criteria; providing an effective date.

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

Section 1. Present subsections (4) and (5) of section 944.801, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and a new subsection (4) is added to that



614458

576-04059-17

section, to read:

944.801 Education for state prisoners.—

(4) The department may enter into a contract with a charter school authorized to operate under s. 1002.33 to provide education services for the Correctional Education Program.

Section 2. Section 1003.631, Florida Statutes, is created to read:

1003.631 Schools of Excellence.—The Schools of Excellence Program is established to provide administrative flexibility to the state's top schools so that the instructional personnel and administrative staff at such schools can continue to serve their communities and increase student learning to the best of their professional ability.

(1) DESIGNATION.—

(a) The State Board of Education shall designate a school as a School of Excellence if the school's percentage of possible points earned in its school grade calculation is in the 80th percentile or higher for schools comprised of the same grade groupings, including elementary schools, middle schools, high schools, and schools with a combination of grade levels, for at least 2 of the last 3 school years. The school must have data for each applicable school grade component pursuant to s. 1008.34(3) to be eligible for designation as a School of Excellence. A qualifying school shall retain the designation as a School of Excellence for up to 3 years, at the end of which time the school may renew the designation, if:

1. The school was in the 80th percentile or higher pursuant to this subsection for 2 of the previous 3 years; and

2. The school did not receive a school grade lower than "B"



614458

576-04059-17

pursuant to s. 1008.34 during any of the previous 3 years.

(b) A school that earns a school grade lower than "B" pursuant to s. 1008.34 during the 3-year period may not continue to be designated as a School of Excellence during the remainder of that 3-year period and loses the administrative flexibilities provided in subsection (2).

(2) ADMINISTRATIVE FLEXIBILITIES.—A School of Excellence must be provided the following administrative flexibilities:

(a) Exemption from any provision of law or rule that expressly requires a minimum period of daily or weekly instruction in a specified subject area.

(b) Principal autonomy as provided under s. 1012.28(8).

(c) For instructional personnel, the substitution of 1 school year of employment at a School of Excellence for 20 inservice points toward the renewal of a professional certificate, up to 60 inservice points in a 5-year cycle, pursuant to s. 1012.585(3).

(d) Exemption from compliance with district policies or procedures that establish times for the start and completion of the school day.

(3) TEACHER CERTIFICATION.—A temporary certificateholder under s. 1012.56(7)(b) who is employed by a School of Excellence may earn a professional certificate by meeting the requirements of s. 1012.56(7)(a)3.

Section 3. Subsection (7) of section 1011.80, Florida Statutes, is amended to read:

1011.80 Funds for operation of workforce education programs.—

(7)(a) A school district or Florida College System



614458

576-04059-17

institution that receives workforce education funds must use the money to benefit the workforce education programs it provides. The money may be used for equipment upgrades, program expansions, or any other use that would result in workforce education program improvement. The district school board or Florida College System institution board of trustees may not withhold any portion of the performance funding for indirect costs.

~~(b) State funds provided for the operation of postsecondary workforce programs may not be expended for the education of state or federal inmates.~~

Section 4. Subsection (8) of section 1012.28, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

1012.28 Public school personnel; duties of school principals.—

(8) The principal of a School of Excellence or a school participating in the Principal Autonomy Pilot Program Initiative under s. 1011.6202 has the following additional authority and responsibilities:

(a) In addition to the authority provided in subsection (6), the authority to select qualified instructional personnel for placement or to refuse to accept the placement or transfer of instructional personnel by the district school superintendent. Placement of instructional personnel at a participating school in a participating school district does not affect the employee's status as a school district employee.

(b) The authority to deploy financial resources to school programs at the principal's discretion to help improve student



614458

576-04059-17

achievement, as defined in s. 1008.34(1), and meet performance goals identified in the principal autonomy proposal submitted pursuant to s. 1011.6202.

(c) To annually provide to the district school superintendent and the district school board a budget for the operation of the participating school that identifies how funds provided pursuant to s. 1011.69(2) are allocated. The school district shall include the budget in the annual report provided to the State Board of Education pursuant to s. 1011.6202(6).

(9) A school district must provide a principal newly assigned to a school with a school grade of "D" or "F" under s. 1008.34 with the additional authority and responsibilities provided in subsection (8). The district may revoke the principal's additional authority and responsibilities under this subsection after the school year following the first school year the school achieves a school grade of "C" or higher.

Section 5. Subsection (6), paragraph (a) of subsection (7), and paragraph (a) of subsection (8) of section 1012.56, Florida Statutes, are amended to read:

1012.56 Educator certification requirements.—

(6) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION COMPETENCE.—Acceptable means of demonstrating mastery of professional preparation and education competence are:

(a) Successful completion of an approved teacher preparation program at a postsecondary educational institution within this state and achievement of a passing score on the professional education competency examination required by state board rule;

(b) Successful completion of a teacher preparation program



614458

576-04059-17

173 at a postsecondary educational institution outside Florida and
174 achievement of a passing score on the professional education
175 competency examination required by state board rule;

176 (c) Documentation of a valid professional standard teaching
177 certificate issued by another state;

178 (d) Documentation of a valid certificate issued by the
179 National Board for Professional Teaching Standards or a national
180 educator credentialing board approved by the State Board of
181 Education;

182 (e) Documentation of two semesters of successful, full-time
183 or part-time teaching in a Florida College System institution,
184 state university, or private college or university that awards
185 an associate or higher degree and is an accredited institution
186 or an institution of higher education identified by the
187 Department of Education as having a quality program and
188 achievement of a passing score on the professional education
189 competency examination required by state board rule;

190 (f) Successful completion of professional preparation
191 courses as specified in state board rule, successful completion
192 of a professional preparation and education competence program
193 pursuant to paragraph (8)(b), and achievement of a passing score
194 on the professional education competency examination required by
195 state board rule;

196 (g) Successful completion of a comprehensive teacher mentorship
197 certification ~~professional development certification and~~
198 ~~education competency~~ program pursuant to, outlined in paragraph

199 (8)(a); ~~or~~

200 (h) Successful completion of a competency-based
201 certification program pursuant to s. 1004.85 and achievement of



614458

576-04059-17

202 a passing score on the professional education competency
203 examination required by rule of the State Board of Education;
204 ~~or-~~

205 (i) Enrollment in a state-approved teacher preparation
206 program or a comprehensive teacher mentorship certification
207 program within 90 days after the issuance of a temporary
208 certificate.

209 1. An applicant whose temporary certificate has been
210 revoked due to his or her failure to enroll in a teacher
211 preparation program or a comprehensive teacher mentorship
212 certification program must be enrolled in such program before
213 the department may issue the applicant a new temporary
214 certificate.

215 2. An applicant who was enrolled in a teacher preparation
216 program or a comprehensive teacher mentorship certification
217 program but is no longer enrolled in the program has 30 days to
218 reenroll or his or her temporary certificate shall be revoked.

219
220 The State Board of Education shall adopt rules to implement this
221 subsection ~~by December 31, 2014~~, including rules to approve
222 specific teacher preparation programs that are not identified in
223 this subsection which may be used to meet requirements for
224 mastery of professional preparation and education competence.

225 (7) TYPES AND TERMS OF CERTIFICATION.-

226 (a) The Department of Education shall issue a professional
227 certificate for a period not to exceed 5 years to any applicant
228 who fulfills one of the following:

229 1. Meets all the requirements outlined in subsection (2).

230 2. ~~or,~~ For a professional certificate covering grades 6



614458

576-04059-17

through 12, ~~any applicant who:~~

~~a.1-~~ Meets the requirements of paragraphs (2) (a)-(h).

~~b.2-~~ Holds a master's or higher degree in the area of science, technology, engineering, or mathematics.

~~c.3-~~ Teaches a high school course in the subject of the advanced degree.

~~d.4-~~ Is rated highly effective as determined by the teacher's performance evaluation under s. 1012.34, based in part on student performance as measured by a statewide, standardized assessment or an Advanced Placement, Advanced International Certificate of Education, or International Baccalaureate examination.

~~e.5-~~ Achieves a passing score on the Florida professional education competency examination required by state board rule.

3. Meets the requirements of paragraphs (2) (a)-(h) and completes a comprehensive teacher mentorship certification program pursuant to paragraph (8) (a). An applicant who completes the program and is rated highly effective as determined by his or her performance evaluation under s. 1012.34 is not required to take or achieve a passing score on the professional education competency examination in order to be awarded a professional certificate.

Each temporary certificate is valid for 3 school fiscal years and is nonrenewable. However, the requirement in paragraph (2) (g) must be met within 1 calendar year of the date of employment under the temporary certificate. Individuals who are employed under contract at the end of the 1 calendar year time period may continue to be employed through the end of the school



614458

576-04059-17

year in which they have been contracted. A school district shall not employ, or continue the employment of, an individual in a position for which a temporary certificate is required beyond this time period if the individual has not met the requirement of paragraph (2) (g). The State Board of Education shall adopt rules to allow the department to extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including the requirement in paragraph (2) (g), were not completed due to the serious illness or injury of the applicant or other extraordinary extenuating circumstances. The department shall reissue the temporary certificate for 2 additional years upon approval by the Commissioner of Education. A written request for reissuance of the certificate shall be submitted by the district school superintendent, the governing authority of a university lab school, the governing authority of a state-supported school, or the governing authority of a private school.

(8) COMPREHENSIVE TEACHER MENTORSHIP CERTIFICATION PROGRAM
~~PROFESSIONAL DEVELOPMENT CERTIFICATION AND EDUCATION COMPETENCY PROGRAM.-~~

(a) The Department of Education shall develop and each school district may provide a ~~cohesive~~ competency-based, comprehensive teacher mentorship certification professional development certification and education competency program. The purpose of the program is to provide by which members of a school district's instructional staff supportive induction services through which they can demonstrate ~~may satisfy the~~ mastery of professional preparation and education competence requirements consistent with ~~specified in~~ subsection (6) and



614458

576-04059-17

rules of the State Board of Education. Participants must hold a state-issued temporary certificate. A school district that implements the program shall provide a competency-based certification program developed by the Department of Education or developed by the district and approved by the Department of Education. The department shall adopt standards for the approval of district-developed comprehensive teacher mentorship certification programs, including program administration and evaluation; mentor roles, selection, and training; beginning teacher assessment and professional development; and instructional practices aligned to the Florida Educator Accomplished Practices. The program shall include the following:

1. A minimum period of initial preparation before assuming duties as the teacher of record.
2. An option for collaboration between school districts and other supporting agencies or educational entities for implementation.
3. An experienced peer-mentor component. Each individual selected by the district as a peer mentor:
 - a. Must hold a valid professional certificate issued pursuant to this section;
 - b. Must have earned at least 3 years of teaching experience in prekindergarten through grade 12; ~~and~~
 - c. Must have completed specialized training in clinical supervision and participate in ongoing mentor training;
 - d. Must have earned an effective or highly effective rating on the prior year's performance evaluation under s. 1012.34; and
 - e. May ~~or~~ be a peer evaluator under the district's evaluation system approved under s. 1012.34.



614458

576-04059-17

4. Weekly opportunities for mentoring activities that include, at a minimum, common planning time, ongoing professional development targeted to a teacher's needs, opportunities for a teacher to observe other teachers, co-teaching experiences, and reflection and follow-up discussions. Mentorship activities must be provided for a teacher's first year in the program and may be provided until the teacher attains his or her professional certificate in accordance with this section.

5.4. An assessment of teaching performance aligned to the district's system for personnel evaluation under s. 1012.34 which provides for:

- a. An initial evaluation of each educator's competencies to determine an appropriate individualized professional development plan.
 - b. A summative evaluation to assure successful completion of the program.
- 6.5. Competency-based training on professional education preparation content knowledge that includes, but is not limited to, the following:
- a. The state standards provided under s. 1003.41, including scientifically based reading instruction, content literacy, and mathematical practices, for each subject identified on the temporary certificate.
 - b. The educator-accomplished practices approved by the state board.
 - c. A variety of data indicators for monitoring student progress.
 - d. Methodologies for teaching students with disabilities.



614458

576-04059-17

347 e. Methodologies for teaching students of limited English
348 proficiency appropriate for each subject area identified on the
349 temporary certificate.

350 f. Techniques and strategies for operationalizing the role
351 of the teacher in assuring a safe learning environment for
352 students.

353 ~~7.6-~~ Required achievement of passing scores on the subject
354 area and professional education competency examination required
355 by State Board of Education rule. Mastery of general knowledge
356 must be demonstrated as described in subsection (3).

357 Section 6. Subsection (3) and paragraph (b) of subsection
358 (5) of section 1012.585, Florida Statutes, are amended to read:
359 1012.585 Process for renewal of professional certificates.-

360 (3) For the renewal of a professional certificate, the
361 following requirements must be met:

362 (a) The applicant must earn a minimum of 6 college credits
363 or 120 inservice points or a combination thereof. For each area
364 of specialization to be retained on a certificate, the applicant
365 must earn at least 3 of the required credit hours or equivalent
366 inservice points in the specialization area. Education in
367 "clinical educator" training pursuant to s. 1004.04(5)(b) and
368 credits or points that provide training in the area of
369 scientifically researched, knowledge-based reading literacy and
370 computational skills acquisition, exceptional student education,
371 normal child development, and the disorders of development may
372 be applied toward any specialization area. Credits or points
373 that provide training in the areas of drug abuse, child abuse
374 and neglect, strategies in teaching students having limited
375 proficiency in English, or dropout prevention, or training in



614458

576-04059-17

376 areas identified in the educational goals and performance
377 standards adopted pursuant to ss. 1000.03(5) and 1008.345 may be
378 applied toward any specialization area. Credits or points earned
379 through approved summer institutes may be applied toward the
380 fulfillment of these requirements. Inservice points may also be
381 earned by participation in professional growth components
382 approved by the State Board of Education and specified pursuant
383 to s. 1012.98 in the district's approved master plan for
384 inservice educational training, including, but not limited to,
385 serving as a trainer in an approved teacher training activity,
386 serving on an instructional materials committee or a state board
387 or commission that deals with educational issues, or serving on
388 an advisory council created pursuant to s. 1001.452.

389 (b) In lieu of college course credit or inservice points,
390 the applicant may renew a subject area specialization by passage
391 of a state board approved Florida-developed subject area
392 examination or, if a Florida subject area examination has not
393 been developed, a standardized examination specified in state
394 board rule.

395 (c) Instructional personnel may substitute 1 school year of
396 employment at a School of Excellence, as defined in s. 1003.631,
397 for 20 inservice points, up to a maximum of 60 inservice points
398 in a 5-year cycle. However, inservice points earned under this
399 paragraph may not be used to satisfy the 3 credit hour
400 specialization area requirement under paragraph (a).

401 (d) (e) If an applicant wishes to retain more than two
402 specialization areas on the certificate, the applicant shall be
403 permitted two successive validity periods for renewal of all
404 specialization areas, but must earn no fewer than 6 college



614458

576-04059-17

405 course credit hours or the equivalent in any one validity
406 period.

407 ~~(e)-(d)~~ The State Board of Education shall adopt rules for
408 the expanded use of training for renewal of the professional
409 certificate for educators who are required to complete training
410 in teaching students of limited English proficiency or students
411 with disabilities and training in the teaching of reading as
412 follows:

413 1. A teacher who holds a professional certificate may use
414 college credits or inservice points earned through training in
415 teaching students of limited English proficiency or students
416 with disabilities and training in the teaching of reading in
417 excess of 6 semester hours during one certificate-validity
418 period toward renewal of the professional certificate during the
419 subsequent validity periods.

420 2. A teacher who holds a temporary certificate may use
421 college credits or inservice points earned through training in
422 teaching students of limited English proficiency or students
423 with disabilities and training in the teaching of reading toward
424 renewal of the teacher's first professional certificate. Such
425 training must not have been included within the degree program,
426 and the teacher's temporary and professional certificates must
427 be issued for consecutive school years.

428 ~~(f)-(e)~~ Beginning July 1, 2014, an applicant for renewal of
429 a professional certificate must earn a minimum of one college
430 credit or the equivalent inservice points in the area of
431 instruction for teaching students with disabilities. The
432 requirement in this paragraph may not add to the total hours
433 required by the department for continuing education or inservice



614458

576-04059-17

434 training.

435 (5) The State Board of Education shall adopt rules to allow
436 the reinstatement of expired professional certificates. The
437 department may reinstate an expired professional certificate if
438 the certificateholder:

439 (b) Documents completion of 6 college credits during the 5
440 years immediately preceding reinstatement of the expired
441 certificate, completion of 120 inservice points, or a
442 combination thereof, in an area specified in paragraph (3)(a) to
443 include the credit required under paragraph (3)(f) ~~(3)(e)~~.
444

445 The requirements of this subsection may not be satisfied by
446 subject area examinations or college credits completed for
447 issuance of the certificate that has expired.

448 Section 7. Paragraph (e) is added to subsection (3) of
449 section 1012.98, Florida Statutes, and paragraph (b) of
450 subsection (4) and subsections (10) and (11) of that section are
451 amended, to read:

452 1012.98 School Community Professional Development Act.—

453 (3) The activities designed to implement this section must:

454 (e) Provide training to teacher mentors as part of the
455 comprehensive teacher mentorship certification program under s.
456 1012.56(8)(a). The training must include components on teacher
457 development, peer coaching, time management, and other related
458 topics as determined by the Department of Education.

459 (4) The Department of Education, school districts, schools,
460 Florida College System institutions, and state universities
461 share the responsibilities described in this section. These
462 responsibilities include the following:



614458

576-04059-17

463 (b) Each school district shall develop a professional
464 development system as specified in subsection (3). The system
465 shall be developed in consultation with teachers, teacher-
466 educators of Florida College System institutions and state
467 universities, business and community representatives, and local
468 education foundations, consortia, and professional
469 organizations. The professional development system must:
470 1. Be approved by the department. All substantial revisions
471 to the system shall be submitted to the department for review
472 for continued approval.
473 2. Be based on analyses of student achievement data and
474 instructional strategies and methods that support rigorous,
475 relevant, and challenging curricula for all students. Schools
476 and districts, in developing and refining the professional
477 development system, shall also review and monitor school
478 discipline data; school environment surveys; assessments of
479 parental satisfaction; performance appraisal data of teachers,
480 managers, and administrative personnel; and other performance
481 indicators to identify school and student needs that can be met
482 by improved professional performance.
483 3. Provide inservice activities coupled with followup
484 support appropriate to accomplish district-level and school-
485 level improvement goals and standards. The inservice activities
486 for instructional personnel shall focus on analysis of student
487 achievement data, ongoing formal and informal assessments of
488 student achievement, identification and use of enhanced and
489 differentiated instructional strategies that emphasize rigor,
490 relevance, and reading in the content areas, enhancement of
491 subject content expertise, integrated use of classroom



614458

576-04059-17

492 technology that enhances teaching and learning, classroom
493 management, parent involvement, and school safety.
494 4. Provide inservice activities and support targeted to the
495 individual needs of new teachers participating in a
496 comprehensive teacher mentor certification program pursuant to
497 s. 1012.56(8)(a).
498 5.4- Include a master plan for inservice activities,
499 pursuant to rules of the State Board of Education, for all
500 district employees from all fund sources. The master plan shall
501 be updated annually by September 1, must be based on input from
502 teachers and district and school instructional leaders, and must
503 use the latest available student achievement data and research
504 to enhance rigor and relevance in the classroom. Each district
505 inservice plan must be aligned to and support the school-based
506 inservice plans and school improvement plans pursuant to s.
507 1001.42(18). Each district inservice plan must provide a
508 description of the training that middle grades instructional
509 personnel and school administrators receive on the district's
510 code of student conduct adopted pursuant to s. 1006.07;
511 integrated digital instruction and competency-based instruction
512 and CAPE Digital Tool certificates and CAPE industry
513 certifications; classroom management; student behavior and
514 interaction; extended learning opportunities for students; and
515 instructional leadership. District plans must be approved by the
516 district school board annually in order to ensure compliance
517 with subsection (1) and to allow for dissemination of research-
518 based best practices to other districts. District school boards
519 must submit verification of their approval to the Commissioner
520 of Education no later than October 1, annually. Each school



614458

576-04059-17

principal may establish and maintain an individual professional development plan for each instructional employee assigned to the school as a seamless component to the school improvement plans developed pursuant to s. 1001.42(18). An individual professional development plan must be related to specific performance data for the students to whom the teacher is assigned, define the inservice objectives and specific measurable improvements expected in student performance as a result of the inservice activity, and include an evaluation component that determines the effectiveness of the professional development plan.

~~6.5-~~ Include inservice activities for school administrative personnel that address updated skills necessary for instructional leadership and effective school management pursuant to s. 1012.986.

~~7.6-~~ Provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs.

~~8.7-~~ Provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs.

~~9.8-~~ Provide for the continuous evaluation of the quality and effectiveness of professional development programs in order to eliminate ineffective programs and strategies and to expand effective ones. Evaluations must consider the impact of such activities on the performance of participating educators and their students' achievement and behavior.

~~10.9-~~ For middle grades, emphasize:

a. Interdisciplinary planning, collaboration, and instruction.



614458

576-04059-17

b. Alignment of curriculum and instructional materials to the state academic standards adopted pursuant to s. 1003.41.

c. Use of small learning communities; problem-solving, inquiry-driven research and analytical approaches for students; strategies and tools based on student needs; competency-based instruction; integrated digital instruction; and project-based instruction.

Each school that includes any of grades 6, 7, or 8 must include in its school improvement plan, required under s. 1001.42(18), a description of the specific strategies used by the school to implement each item listed in this subparagraph.

(10) For instructional personnel and administrative personnel who have been evaluated as less than effective, a district school board shall require participation in specific professional development programs as provided in subparagraph (4) (b) 5. ~~(4) (b) 4-~~ as part of the improvement prescription.

(11) The department shall disseminate to the school community proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and engagement, ~~and~~ meeting identified student needs, and providing effective mentorship activities to new teachers and training to teacher mentors. The methods of dissemination must include a web-based statewide performance-support system including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available technical assistance.

Section 8. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1598

INTRODUCER: Education Committee and Senators Brandes and Perry

SUBJECT: Education

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Benvenisty	Graf	ED	Fav/CS
2. Sikes	Elwell	AED	Recommend: Fav/CS
3. Sikes	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1598 establishes the Schools of Excellence Program to provide administrative flexibility to the state's top schools to enhance student learning. Additionally, the bill:

- Renames the current professional development certification and education competency program as the comprehensive teacher mentorship certification program with some modifications.
- Modifies the School Professional Development Act to include specified training relating to the comprehensive teacher mentorship certification program.
- Authorizes the Department of Corrections to enter into a contract with a charter school authorized to operate pursuant to law to provide education services for the Correctional Education Program.
- Specifies that a county in which a public or private postsecondary institution is located may authorize a public high school educational facility, including a charter school educational facility, which meets statutory requirements, related to educational facilities, to be located on the postsecondary institution's campus.

The bill does not impact state revenues or expenditures.

The bill takes effect July 1, 2017.

II. Present Situation:

School Grades

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.¹ School grades are also used to determine whether a school must select or implement a turnaround option² or whether a school is eligible for school recognition funds as appropriated by the Legislature.³

The annual reports must identify schools as having one of the following grades:⁴

- “A,” for schools making excellent progress – 62% or higher of total points
- “B,” for schools making above average progress – 54% to 61% of total points
- “C,” for schools making satisfactory progress – 41% to 53% of total points
- “D,” for schools making less than satisfactory progress – 32% to 40% of total points
- “F,” for schools failing to make adequate progress – 31% or less of total points

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. Middle and high school models include additional components beyond the basic model.⁵ Combination school models include the additional components for the grades served (e.g., a school serving grades K through 12 would include the additional components for the middle and high school models).

Principal Autonomy Pilot Program Initiative

In 2016, the Legislature established the Principal Autonomy Pilot Program Initiative (PAPPI) within the Florida Department of Education (DOE) to provide the principal of a participating school with increased autonomy and authority regarding allocation of resources and staffing to improve student achievement and school management.⁶ A participating school must have received at least two school grades of “D” or “F” during the previous three school years, and a participating principal must have earned a highly effective rating on the prior year's performance evaluation.⁷ The program exempts participating schools from the K-20 Education Code and state board rules implementing such provisions, with some exceptions.⁸ In addition, a principal at a participating school may select qualified instructional personnel for placement at the school and refuse placement or transfer of instructional personnel by the district school superintendent, in any case.⁹ The principal also has greater budgeting authority to allocate resources to help improve student achievement.¹⁰

¹ Section 1008.34(1), F.S. If there are fewer than 10 eligible students with data for a component, the component is not included in the calculation. Section 1008.34(3)(a), F.S.

² See s. 1008.33(4), F.S.

³ See s. 1008.26, F.S.

⁴ Section 1008.34(2), F.S.; Rule 6A-1.09981(4)(d), F.A.C.

⁵ See s. 1008.34(3)(b), F.S.; Rule 6A-1.09981(4)(a)-(c), F.A.C.

⁶ Chapter 2016-223, L.O.F. *Codified at* ss. 1012.28(8), and 1011.6202, F.S.

⁷ Section 1011.6202(2)(a)1. and 2., F.S.

⁸ See s. 1011.6202(3), F.S.

⁹ Section 1012.28(8)(a), F.S.

¹⁰ Section 1012.28(8)(b), F.S.

Educator Certification

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the DOE.¹¹

Certification requirements are established to assure that educational personnel in public schools possess appropriate skills in reading, writing, and mathematics, and adequate pedagogical knowledge, including the use of technology to enhance student learning, and relevant subject matter competence to demonstrate an acceptable level of professional performance.¹²

Types of Educator Certificates

The DOE identifies appropriate educator certification for the instruction of specified courses in an annual publication of a directory of course code numbers for all programs and courses funded through the Florida Education Finance Program.¹³

The DOE issues three types of educator certificates:¹⁴

- A professional certificate is the highest type of full-time certificate issued. The professional certificate is a 5-year renewable certificate.¹⁵
- A temporary certificate is a 3-year nonrenewable certificate issued to an applicant who does not qualify for a professional certificate.¹⁶
- An Athletic Coaching certificate covers a full-time or part-time individual who is employed as an athletic coach in any public school in any district of the state.¹⁷

Eligibility Criteria for Educator Certification

To be eligible to seek a Florida educator's certificate, an individual must:¹⁸

- Be at least 18 years of age.
- File an affidavit to uphold the principles incorporated in the Constitution of the United States and the Constitution of the State of Florida and that the information provided in the application is true, accurate, and complete.
- Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, or a nonaccredited institution of higher learning that the DOE has identified as having a quality program resulting in a bachelor's degree, or higher. Each applicant seeking initial certification must have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study.
- Submit to a background screening in accordance with Florida law.
- Be of good moral character.
- Be competent and capable of performing the duties, functions, and responsibilities of an educator.

¹¹ Sections 1012.55(1) and 1002.33(12)(f), F.S.

¹² Section 1012.54, F.S.

¹³ Section 1012.55(1)(c), F.S.

¹⁴ Section 1012.55, F.S.

¹⁵ Section 1012.56(1)-(3) and (5), (6)-(7), F.S.

¹⁶ Section 1012.56(7)(b), F.S.; Rule 6A-4.004(1), F.A.C.

¹⁷ Section 1012.55(2)(a), F.S.

¹⁸ Section 1012.56(2)(a)-(i), F.S.

- Demonstrate mastery of general knowledge, subject area knowledge, and professional preparation and education competence.

Professional Development Certification and Education Competency Program

Florida law authorizes a school district to provide a cohesive competency-based professional development certification and education competency program by which members of a school district's instructional staff may satisfy the mastery of professional preparation and education competence requirements specified in statute and rules of the State Board of Education (SBE).¹⁹ Participants in this program must hold a state-issued temporary certificate.²⁰ A school district that implements the program must provide a competency-based certification developed by the DOE or developed by the district and approved by the DOE.²¹

Renewal of Professional Certificates

All professional certificates, except a nonrenewable professional certificate, must be renewed every five years.²² In order to qualify for renewal, the applicant must earn at least 6 college credits or 120 inservice (professional development) points during the 5-year cycle.²³ At least 3 college credits or 60 inservice points must be earned in each subject area for which renewal is sought.²⁴ Credits or inservice points may also be earned in courses in clinical educator training, literacy and computational skills acquisition, exceptional student education, child development, drug abuse, child abuse, limited English proficiency, dropout prevention, and other topics.²⁵ Applicants for renewal of a professional certificate must earn at least one college credit or the equivalent amount of inservice points in the area of instruction for teaching students with disabilities.²⁶

School Community Professional Development Act

Florida law requires the DOE, public postsecondary education institutions public school districts, state education foundations, consortia, and professional organizations to work collaboratively to establish a coordinated system of professional development.²⁷ The purpose of this system is to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.²⁸

¹⁹ Section 1012.56(8)(a), F.S.

²⁰ *Id.*

²¹ Section 1012.56(8)(a), F.S.

²² Section 1012.585(2)(a), F.S.

²³ Section 1012.585(3)(a), F.S. Applicants may combine college credits and inservice points to meet this requirement. One semester hour of college credit is equivalent to 20 inservice points. Rule 6A-4.0051(1)(a)2., F.A.C. College credits must be earned at an accredited or state board-approved institution. Inservice points must be earned through participation in state board-approved school district inservice activities. Rule 6A-4.0051(1)(a), F.A.C.; see rule 6A-4.003(1) and (2), F.A.C. (list of approved accrediting agencies and guidelines for nonaccredited approved institutions).

²⁴ Section 1012.585(3)(a), F.S.

²⁵ *Id.*

²⁶ Section 1012.585(4), F.S. This required training may not add to the total hours required by the DOE for continuing education or inservice training. *Id.*

²⁷ Section 1012.98(1), F.S.

²⁸ Section 1012.98(1), F.S.

Education for State Prisoners

Florida law establishes under the Department of Corrections (DOC) a Correctional Education Program, which must be composed of the educational facilities and services of all institutions, and facilities housing inmates operated by the DOC and must be supervised by the DOC.²⁹

Educational Facilities

Florida law authorizes state and local officials to cooperate in establishing and maintaining educational plants that will provide for public educational needs throughout the state.³⁰

III. Effect of Proposed Changes:

The bill establishes the Schools of Excellence Program to provide administrative flexibility to the state's top schools to enhance student learning. Additionally, the bill:

- Renames the current professional development certification and education competency program as the comprehensive teacher mentorship certification program.
- Modifies the School Professional Development Act to include specified training relating to the comprehensive teacher mentorship certification program.

Schools of Excellence (Sections 2, 3, and 5)

Section 2 establishes the Schools of Excellence Program to provide administrative flexibility to the state's top schools and requires the State Board of Education to designate a school as a School of Excellence if the school's percentage of possible points earned in its school grades calculation is in the 80th percentile or higher for schools within the same grade group (elementary schools, middle schools, high schools, or combination schools) for 2 of the last 3 school years. In order to qualify, the school must have data for each applicable school grade component.

A school retains its designation as a School of Excellence for up to 3 years so long as it does not receive a school grade lower than a "B" during that span. The school may renew its designation for another 3 years if it remains in the 80th percentile or higher for 2 of the 3 years and does not receive a grade lower than a "B" in any of the years. A School of Excellence that receives a grade lower than "B" may not continue to be designated as a School of Excellence and loses its administrative flexibility during the remainder of the 3-year period.

Section 2 provides the following administrative flexibilities to a School of Excellence:

- Exemption from any provision in law or rule that expressly requires a minimum period of daily or weekly instruction in a specified subject area.
- Principal autonomy under the Principal Autonomy Pilot Project Initiative (PAPPI).
- For instructional personnel, the substitution of 1 school year of employment at a School of Excellence for 20 inservice points toward the renewal of a professional certificate, up to 60 inservice points in a 5-year cycle.
- Exemption from district-set starting and stopping times for the school day.

²⁹ Section 944.801(1), F.S.

³⁰ Section 1013.02(1), F.S.

Section 3 grants to a principal newly assigned to a school with a school grade of “D” or “F” additional authority and responsibilities similar to those granted to principals at Schools of Excellence and at schools participating in the PAPPI. This section authorizes a school district to revoke the principal’s additional authority after the school year following the first school year the school achieves a school grade of “C” or higher. As such, the bill may provide principals with greater autonomy to determine the best approach to improve student performance at that school.

Comprehensive Teacher Mentorship Certification Program (Section 4 and 6)

Section 4 changes the name of the professional development certification and education competency program to the comprehensive teacher mentorship certification program.

Section 4 requires the Florida Department of Education (DOE) to issue a professional certificate to a temporary certificate holder who meets the requirements for a professional certificate enumerated above, who completes a comprehensive teacher mentorship certification, and is rated highly effective under the district’s teacher evaluation system. As such, section 4 provides that an individual with a temporary certificate is not required to take or achieve a passing score on the professional education competency examination to be awarded a professional certificate.

Section 4 requires a comprehensive teacher mentorship certification program to include a mentorship and induction component, which must include, at minimum, weekly opportunities for mentoring and induction activities. Mentoring and induction activities include, common planning time, ongoing professional development targeted to a teacher’s needs, co-teaching experiences, and reflection and follow-up discussions. A teacher selected to serve as a peer mentor is required under the bill to complete specialized training in clinical supervision and participate in ongoing mentor training. Section 6 requires this training be provided under the School Community Professional Development Act.

The DOE is directed to adopt standards for the approval of district developed comprehensive teacher mentorship certification programs, including standards for the teacher mentorship and induction component, by December 31, 2017. The standards for the teacher mentorship and induction component must include:

- Program administration and evaluation;
- Mentor roles, selection, and training;
- Beginning teacher assessment and professional development; and
- Teacher content knowledge and practices aligned to the Florida Educator Accomplished Practices.

Accordingly, this program may ease the pathway to teacher certification for temporary certificate holders and may help school districts recruit and retain teachers.

Education for State Prisoners (Section 1)

Section 1 authorizes the Department of Corrections (DOC) to enter into a contract with a charter school, authorized to operate as part of the state’s program of public education, to provide education services for the Correctional Education Program. Accordingly, such contracts may

provide the DOC with another method to offer education services to state prisoners. The bill does not address funding for the delivery of education services by the charter schools.

High School Educational Facilities (Section 7)

Section 7 specifies that a county in which a public or private postsecondary institution is located may authorize a public high school educational facility, including a charter school educational facility, which meets statutory requirements related to educational facilities, to be located on the postsecondary institution's campus. Currently, Florida law has authorized Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, the University of Florida and other universities approved by the State Board of Education and the Legislature to sponsor a developmental research (laboratory) school.³¹ Laboratory schools are public schools and must be affiliated with the college of education within the state university of closest proximity.³² This section allows a county to authorize a public high school, unaffiliated with a postsecondary institution, to operate on a postsecondary institution's campus.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the Florida Department of Education (DOE), this bill may save professional certificate applicants by not requiring them to enroll in additional college coursework or take the professional education competency examination to be awarded a professional certificate.³³

³¹ Section 1002.23(2), F.S.

³² *Id.*

³³ Telephone Interview with Government Relations Staff, Florida Department of Education (March 30, 2017).

C. Government Sector Impact:

According to the DOE, implementation of the bill may require additional staff time to review, approve, and monitor compliance with the statutory requirements for the Professional Development Certification and Education Competency programs, as well as revision of school district professional development systems.³⁴ These additional requirements should be absorbed within existing agency resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 944.801, 1012.28, 1012.56, 1012.585, and 1012.98.

This bill creates the following sections of the Florida Statutes: 1003.631 and 1013.29.

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

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

CS by Education on April 3, 2017:

The committee substitute adds provisions to the bill to:

- Authorize the Department of Corrections to enter into a contract with a charter school authorized to operate pursuant to law to provide education services for the Correctional Education Program.
- Specify that a county in which a public or private postsecondary institution is located may authorize a public high school educational facility, including a charter school educational facility, which meets statutory requirements to be located on the postsecondary institution's campus.

B. Amendments:

None.

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

³⁴ *Id.*

By the Committee on Education; and Senator Brandes

581-03357-17

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1 A bill to be entitled
 2 An act relating to education; amending s. 944.801,
 3 F.S.; authorizing the Department of Corrections to
 4 contract with charter schools to provide education
 5 services to the Correctional Education Program;
 6 creating s. 1003.631, F.S.; creating the Schools of
 7 Excellence Program; providing for designation as a
 8 School of Excellence; providing requirements for a
 9 School of Excellence; providing for redesignation;
 10 authorizing Schools of Excellence to have specified
 11 administrative flexibilities; authorizing certain
 12 teachers to earn a professional certificate by
 13 completing a specified program; amending s. 1012.28,
 14 F.S.; providing additional authority and
 15 responsibilities to the principal of a School of
 16 Excellence; providing that newly assigned principals
 17 of certain schools must be provided specified
 18 authority and responsibilities; amending s. 1012.56,
 19 F.S.; providing that successful completion of a
 20 specified program demonstrates mastery of certain
 21 skills; revising the criteria instructional personnel
 22 must meet to be issued a professional certificate;
 23 providing that an applicant for professional
 24 certification is not required to take or pass a
 25 specified examination under certain circumstances;
 26 providing requirements for the development and
 27 implementation of a comprehensive teacher mentorship
 28 certification program; providing the purpose of the
 29 program; requiring the Department of Education to

Page 1 of 20

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581-03357-17

20171598c1

30 adopt standards for the approval of district-developed
 31 programs; providing requirements for such standards;
 32 providing program requirements; providing peer mentor
 33 requirements; amending s. 1012.585, F.S.; providing
 34 that instructional personnel may substitute 1 year of
 35 specified employment for a certain amount of inservice
 36 points within a certain cycle for certificate renewal;
 37 providing such employment does not satisfy a specified
 38 credit hour requirement; amending s. 1012.98, F.S.;
 39 revising the activities designed to implement the
 40 School Community Professional Development Act to
 41 include specified training relating to the
 42 comprehensive teacher mentorship program; revising
 43 requirements for school district professional
 44 development systems; requiring the department to
 45 disseminate professional development programs that
 46 meet specified criteria; creating s. 1013.29, F.S.;
 47 authorizing certain high school educational facilities
 48 to be located on a public or private postsecondary
 49 institution campus under certain circumstances;
 50 providing an effective date.

51
 52 Be It Enacted by the Legislature of the State of Florida:

53
 54 Section 1. Present subsections (4) and (5) of section
 55 944.801, Florida Statutes, are redesignated as subsections (5)
 56 and (6), respectively, and a new subsection (4) is added to that
 57 section, to read:
 58 944.801 Education for state prisoners.—

Page 2 of 20

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581-03357-17

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(4) The department may enter into a contract with a charter school authorized to operate under s. 1002.33 to provide education services for the Correctional Education Program.

Section 2. Section 1003.631, Florida Statutes, is created to read:

1003.631 Schools of Excellence.—The Schools of Excellence Program is established to provide administrative flexibility to the state's top schools so that the instructional personnel and administrative staff at such schools can continue to serve their communities and increase student learning to the best of their professional ability.

(1) DESIGNATION.—

(a) The State Board of Education shall designate a school as a School of Excellence if the school's percentage of possible points earned in its school grade calculation is in the 80th percentile or higher for schools comprised of the same grade groupings, including elementary schools, middle schools, high schools, and schools with a combination of grade levels, for at least 2 of the last 3 school years. The school must have data for each applicable school grade component pursuant to s. 1008.34(3) to be eligible for designation as a School of Excellence. A qualifying school shall retain the designation as a School of Excellence for up to 3 years, at the end of which time the school may renew the designation, if:

1. The school was in the 80th percentile or higher pursuant to this subsection for 2 of the previous 3 years; and

2. The school did not receive a school grade lower than "B" pursuant to s. 1008.34 during any of the previous 3 years.

(b) A school that earns a school grade lower than "B"

581-03357-17

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pursuant to s. 1008.34 during the 3-year period may not continue to be designated as a School of Excellence during the remainder of that 3-year period and loses the administrative flexibilities provided in subsection (2).

(2) ADMINISTRATIVE FLEXIBILITIES.—A School of Excellence must be provided the following administrative flexibilities:

(a) Exemption from any provision of law or rule that expressly requires a minimum period of daily or weekly instruction in a specified subject area.

(b) Principal autonomy as provided under s. 1012.28(8).

(c) For instructional personnel, the substitution of 1 school year of employment at a School of Excellence for 20 inservice points toward the renewal of a professional certificate, up to 60 inservice points in a 5-year cycle, pursuant to s. 1012.585(3).

(d) Exemption from compliance with district policies or procedures that establish times for the start and completion of the school day.

(3) TEACHER CERTIFICATION.—A temporary certificateholder under s. 1012.56(7)(b) who is employed by a School of Excellence may earn a professional certificate by meeting the requirements of s. 1012.56(7)(a)3.

Section 3. Subsection (8) of section 1012.28, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

1012.28 Public school personnel; duties of school principals.—

(8) The principal of a School of Excellence or a school participating in the Principal Autonomy Pilot Program Initiative

581-03357-17 20171598c1

117 under s. 1011.6202 has the following additional authority and
118 responsibilities:

119 (a) In addition to the authority provided in subsection
120 (6), the authority to select qualified instructional personnel
121 for placement or to refuse to accept the placement or transfer
122 of instructional personnel by the district school
123 superintendent. Placement of instructional personnel at a
124 participating school in a participating school district does not
125 affect the employee's status as a school district employee.

126 (b) The authority to deploy financial resources to school
127 programs at the principal's discretion to help improve student
128 achievement, as defined in s. 1008.34(1), and meet performance
129 goals identified in the principal autonomy proposal submitted
130 pursuant to s. 1011.6202.

131 (c) To annually provide to the district school
132 superintendent and the district school board a budget for the
133 operation of the participating school that identifies how funds
134 provided pursuant to s. 1011.69(2) are allocated. The school
135 district shall include the budget in the annual report provided
136 to the State Board of Education pursuant to s. 1011.6202(6).

137 (9) A school district must provide a principal newly
138 assigned to a school with a school grade of "D" or "F" under s.
139 1008.34 with the additional authority and responsibilities
140 provided in subsection (8). The district may revoke the
141 principal's additional authority and responsibilities under this
142 subsection after the school year following the first school year
143 the school achieves a school grade of "C" or higher.

144 Section 4. Subsection (6), paragraph (a) of subsection (7),
145 and paragraph (a) of subsection (8) of section 1012.56, Florida

581-03357-17 20171598c1

146 Statutes, are amended to read:

147 1012.56 Educator certification requirements.—

148 (6) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION
149 COMPETENCE.—Acceptable means of demonstrating mastery of
150 professional preparation and education competence are:

151 (a) Successful completion of an approved teacher
152 preparation program at a postsecondary educational institution
153 within this state and achievement of a passing score on the
154 professional education competency examination required by state
155 board rule;

156 (b) Successful completion of a teacher preparation program
157 at a postsecondary educational institution outside Florida and
158 achievement of a passing score on the professional education
159 competency examination required by state board rule;

160 (c) Documentation of a valid professional standard teaching
161 certificate issued by another state;

162 (d) Documentation of a valid certificate issued by the
163 National Board for Professional Teaching Standards or a national
164 educator credentialing board approved by the State Board of
165 Education;

166 (e) Documentation of two semesters of successful, full-time
167 or part-time teaching in a Florida College System institution,
168 state university, or private college or university that awards
169 an associate or higher degree and is an accredited institution
170 or an institution of higher education identified by the
171 Department of Education as having a quality program and
172 achievement of a passing score on the professional education
173 competency examination required by state board rule;

174 (f) Successful completion of professional preparation

581-03357-17

20171598c1

courses as specified in state board rule, successful completion of a professional preparation and education competence program pursuant to paragraph (8)(b), and achievement of a passing score on the professional education competency examination required by state board rule;

(g) Successful completion of a comprehensive teacher mentorship certification ~~professional development certification and education competency~~ program pursuant to, ~~outlined in~~ paragraph (8)(a); or

(h) Successful completion of a competency-based certification program pursuant to s. 1004.85 and achievement of a passing score on the professional education competency examination required by rule of the State Board of Education.

The State Board of Education shall adopt rules to implement this subsection ~~by December 31, 2014,~~ including rules to approve specific teacher preparation programs that are not identified in this subsection which may be used to meet requirements for mastery of professional preparation and education competence.

(7) TYPES AND TERMS OF CERTIFICATION.—

(a) The Department of Education shall issue a professional certificate for a period not to exceed 5 years to any applicant who fulfills one of the following:

1. Meets all the requirements outlined in subsection (2).

2. or, For a professional certificate covering grades 6 through 12, ~~any applicant who:~~

a.1- Meets the requirements of paragraphs (2)(a)-(h).

b.2- Holds a master's or higher degree in the area of science, technology, engineering, or mathematics.

581-03357-17

20171598c1

c.3- Teaches a high school course in the subject of the advanced degree.

d.4- Is rated highly effective as determined by the teacher's performance evaluation under s. 1012.34, based in part on student performance as measured by a statewide, standardized assessment or an Advanced Placement, Advanced International Certificate of Education, or International Baccalaureate examination.

e.5- Achieves a passing score on the Florida professional education competency examination required by state board rule.

3. Meets the requirements of paragraphs (2)(a)-(h) and completes a comprehensive teacher mentorship certification program pursuant to paragraph (8)(a). An applicant who completes the program and is rated highly effective as determined by his or her performance evaluation under s. 1012.34 is not required to take or achieve a passing score on the professional education competency examination in order to be awarded a professional certificate.

Each temporary certificate is valid for 3 school fiscal years and is nonrenewable. However, the requirement in paragraph (2)(g) must be met within 1 calendar year of the date of employment under the temporary certificate. Individuals who are employed under contract at the end of the 1 calendar year time period may continue to be employed through the end of the school year in which they have been contracted. A school district shall not employ, or continue the employment of, an individual in a position for which a temporary certificate is required beyond this time period if the individual has not met the requirement

581-03357-17

20171598c1

of paragraph (2)(g). The State Board of Education shall adopt rules to allow the department to extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including the requirement in paragraph (2)(g), were not completed due to the serious illness or injury of the applicant or other extraordinary extenuating circumstances. The department shall reissue the temporary certificate for 2 additional years upon approval by the Commissioner of Education. A written request for reissuance of the certificate shall be submitted by the district school superintendent, the governing authority of a university lab school, the governing authority of a state-supported school, or the governing authority of a private school.

(8) COMPREHENSIVE TEACHER MENTORSHIP CERTIFICATION PROGRAM
PROFESSIONAL DEVELOPMENT CERTIFICATION AND EDUCATION COMPETENCY PROGRAM.—

(a) The Department of Education shall develop and each school district may provide a ~~cohesive~~ competency-based, comprehensive teacher mentorship certification ~~professional development certification and education competency~~ program. The purpose of the program is to provide by which members of a school district's instructional staff supportive induction services through which they can demonstrate ~~may satisfy the~~ mastery of professional preparation and education competence requirements consistent with ~~specified in~~ subsection (6) and rules of the State Board of Education. Participants must hold a state-issued temporary certificate. A school district that implements the program shall provide a competency-based certification program developed by the Department of Education

581-03357-17

20171598c1

or developed by the district and approved by the Department of Education. The department shall adopt standards for the approval of district-developed comprehensive teacher mentorship certification programs, including program administration and evaluation; mentor roles, selection, and training; beginning teacher assessment and professional development; and instructional practices aligned to the Florida Educator Accomplished Practices. The program shall include the following:

1. A minimum period of initial preparation before assuming duties as the teacher of record.
2. An option for collaboration between school districts and other supporting agencies or educational entities for implementation.
3. An experienced peer-mentor component. Each individual selected by the district as a peer mentor:
 - a. Must hold a valid professional certificate issued pursuant to this section;
 - b. Must have earned at least 3 years of teaching experience in prekindergarten through grade 12; ~~and~~
 - c. Must have completed specialized training in clinical supervision and participate in ongoing mentor training;
 - d. Must have earned an effective or highly effective rating on the prior year's performance evaluation under s. 1012.34; and
 - e. May ~~or~~ be a peer evaluator under the district's evaluation system approved under s. 1012.34.
4. Weekly opportunities for mentoring activities that include, at a minimum, common planning time, ongoing professional development targeted to a teacher's needs, opportunities for a teacher to observe other teachers, co-

581-03357-17

20171598c1

291 teaching experiences, and reflection and follow-up discussions.
 292 Mentorship activities must be provided for a teacher's first
 293 year in the program and may be provided until the teacher
 294 attains his or her professional certificate in accordance with
 295 this section.

296 ~~5.4-~~ An assessment of teaching performance aligned to the
 297 district's system for personnel evaluation under s. 1012.34
 298 which provides for:

299 a. An initial evaluation of each educator's competencies to
 300 determine an appropriate individualized professional development
 301 plan.

302 b. A summative evaluation to assure successful completion
 303 of the program.

304 ~~6.5-~~ Competency-based training on professional education
 305 preparation content knowledge that includes, but is not limited
 306 to, the following:

307 a. The state standards provided under s. 1003.41, including
 308 scientifically based reading instruction, content literacy, and
 309 mathematical practices, for each subject identified on the
 310 temporary certificate.

311 b. The educator-accomplished practices approved by the
 312 state board.

313 c. A variety of data indicators for monitoring student
 314 progress.

315 d. Methodologies for teaching students with disabilities.

316 e. Methodologies for teaching students of limited English
 317 proficiency appropriate for each subject area identified on the
 318 temporary certificate.

319 f. Techniques and strategies for operationalizing the role

581-03357-17

20171598c1

320 of the teacher in assuring a safe learning environment for
 321 students.

322 ~~7.6-~~ Required achievement of passing scores on the subject
 323 area and professional education competency examination required
 324 by State Board of Education rule. Mastery of general knowledge
 325 must be demonstrated as described in subsection (3).

326 Section 5. Subsection (3) and paragraph (b) of subsection
 327 (5) of section 1012.585, Florida Statutes, are amended to read:
 328 1012.585 Process for renewal of professional certificates.-

329 (3) For the renewal of a professional certificate, the
 330 following requirements must be met:

331 (a) The applicant must earn a minimum of 6 college credits
 332 or 120 inservice points or a combination thereof. For each area
 333 of specialization to be retained on a certificate, the applicant
 334 must earn at least 3 of the required credit hours or equivalent
 335 inservice points in the specialization area. Education in
 336 "clinical educator" training pursuant to s. 1004.04(5)(b) and
 337 credits or points that provide training in the area of
 338 scientifically researched, knowledge-based reading literacy and
 339 computational skills acquisition, exceptional student education,
 340 normal child development, and the disorders of development may
 341 be applied toward any specialization area. Credits or points
 342 that provide training in the areas of drug abuse, child abuse
 343 and neglect, strategies in teaching students having limited
 344 proficiency in English, or dropout prevention, or training in
 345 areas identified in the educational goals and performance
 346 standards adopted pursuant to ss. 1000.03(5) and 1008.345 may be
 347 applied toward any specialization area. Credits or points earned
 348 through approved summer institutes may be applied toward the

581-03357-17

20171598c1

fulfillment of these requirements. Inservice points may also be earned by participation in professional growth components approved by the State Board of Education and specified pursuant to s. 1012.98 in the district's approved master plan for inservice educational training, including, but not limited to, serving as a trainer in an approved teacher training activity, serving on an instructional materials committee or a state board or commission that deals with educational issues, or serving on an advisory council created pursuant to s. 1001.452.

(b) In lieu of college course credit or inservice points, the applicant may renew a subject area specialization by passage of a state board approved Florida-developed subject area examination or, if a Florida subject area examination has not been developed, a standardized examination specified in state board rule.

(c) Instructional personnel may substitute 1 school year of employment at a School of Excellence, as defined in s. 1003.631, for 20 inservice points, up to a maximum of 60 inservice points in a 5-year cycle. However, inservice points earned under this paragraph may not be used to satisfy the 3 credit hour specialization area requirement under paragraph (a).

(d)~~(e)~~ If an applicant wishes to retain more than two specialization areas on the certificate, the applicant shall be permitted two successive validity periods for renewal of all specialization areas, but must earn no fewer than 6 college course credit hours or the equivalent in any one validity period.

(e)~~(d)~~ The State Board of Education shall adopt rules for the expanded use of training for renewal of the professional

581-03357-17

20171598c1

certificate for educators who are required to complete training in teaching students of limited English proficiency or students with disabilities and training in the teaching of reading as follows:

1. A teacher who holds a professional certificate may use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in the teaching of reading in excess of 6 semester hours during one certificate-validity period toward renewal of the professional certificate during the subsequent validity periods.

2. A teacher who holds a temporary certificate may use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in the teaching of reading toward renewal of the teacher's first professional certificate. Such training must not have been included within the degree program, and the teacher's temporary and professional certificates must be issued for consecutive school years.

(f)~~(e)~~ Beginning July 1, 2014, an applicant for renewal of a professional certificate must earn a minimum of one college credit or the equivalent inservice points in the area of instruction for teaching students with disabilities. The requirement in this paragraph may not add to the total hours required by the department for continuing education or inservice training.

(5) The State Board of Education shall adopt rules to allow the reinstatement of expired professional certificates. The department may reinstate an expired professional certificate if

581-03357-17

20171598c1

the certificateholder:

(b) Documents completion of 6 college credits during the 5 years immediately preceding reinstatement of the expired certificate, completion of 120 inservice points, or a combination thereof, in an area specified in paragraph (3)(a) to include the credit required under paragraph (3)(f) ~~(3)(e)~~.

The requirements of this subsection may not be satisfied by subject area examinations or college credits completed for issuance of the certificate that has expired.

Section 6. Paragraph (e) is added to subsection (3) of section 1012.98, Florida Statutes, and paragraph (b) of subsection (4) and subsections (10) and (11) of that section are amended, to read:

1012.98 School Community Professional Development Act.—

(3) The activities designed to implement this section must:

(e) Provide training to teacher mentors as part of the comprehensive teacher mentorship certification program under s. 1012.56(8)(a). The training must include components on teacher development, peer coaching, time management, and other related topics as determined by the Department of Education.

(4) The Department of Education, school districts, schools, Florida College System institutions, and state universities share the responsibilities described in this section. These responsibilities include the following:

(b) Each school district shall develop a professional development system as specified in subsection (3). The system shall be developed in consultation with teachers, teacher-educators of Florida College System institutions and state

581-03357-17

20171598c1

universities, business and community representatives, and local education foundations, consortia, and professional organizations. The professional development system must:

1. Be approved by the department. All substantial revisions to the system shall be submitted to the department for review for continued approval.

2. Be based on analyses of student achievement data and instructional strategies and methods that support rigorous, relevant, and challenging curricula for all students. Schools and districts, in developing and refining the professional development system, shall also review and monitor school discipline data; school environment surveys; assessments of parental satisfaction; performance appraisal data of teachers, managers, and administrative personnel; and other performance indicators to identify school and student needs that can be met by improved professional performance.

3. Provide inservice activities coupled with followup support appropriate to accomplish district-level and school-level improvement goals and standards. The inservice activities for instructional personnel shall focus on analysis of student achievement data, ongoing formal and informal assessments of student achievement, identification and use of enhanced and differentiated instructional strategies that emphasize rigor, relevance, and reading in the content areas, enhancement of subject content expertise, integrated use of classroom technology that enhances teaching and learning, classroom management, parent involvement, and school safety.

4. Provide inservice activities and support targeted to the individual needs of new teachers participating in a

581-03357-17

20171598c1

comprehensive teacher mentor certification program pursuant to s. 1012.56(8)(a).

~~5.4-~~ Include a master plan for inservice activities, pursuant to rules of the State Board of Education, for all district employees from all fund sources. The master plan shall be updated annually by September 1, must be based on input from teachers and district and school instructional leaders, and must use the latest available student achievement data and research to enhance rigor and relevance in the classroom. Each district inservice plan must be aligned to and support the school-based inservice plans and school improvement plans pursuant to s. 1001.42(18). Each district inservice plan must provide a description of the training that middle grades instructional personnel and school administrators receive on the district's code of student conduct adopted pursuant to s. 1006.07; integrated digital instruction and competency-based instruction and CAPE Digital Tool certificates and CAPE industry certifications; classroom management; student behavior and interaction; extended learning opportunities for students; and instructional leadership. District plans must be approved by the district school board annually in order to ensure compliance with subsection (1) and to allow for dissemination of research-based best practices to other districts. District school boards must submit verification of their approval to the Commissioner of Education no later than October 1, annually. Each school principal may establish and maintain an individual professional development plan for each instructional employee assigned to the school as a seamless component to the school improvement plans developed pursuant to s. 1001.42(18). An individual professional

581-03357-17

20171598c1

development plan must be related to specific performance data for the students to whom the teacher is assigned, define the inservice objectives and specific measurable improvements expected in student performance as a result of the inservice activity, and include an evaluation component that determines the effectiveness of the professional development plan.

~~6.5-~~ Include inservice activities for school administrative personnel that address updated skills necessary for instructional leadership and effective school management pursuant to s. 1012.986.

~~7.6-~~ Provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs.

~~8.7-~~ Provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs.

~~9.8-~~ Provide for the continuous evaluation of the quality and effectiveness of professional development programs in order to eliminate ineffective programs and strategies and to expand effective ones. Evaluations must consider the impact of such activities on the performance of participating educators and their students' achievement and behavior.

~~10.9-~~ For middle grades, emphasize:

a. Interdisciplinary planning, collaboration, and instruction.

b. Alignment of curriculum and instructional materials to the state academic standards adopted pursuant to s. 1003.41.

c. Use of small learning communities; problem-solving, inquiry-driven research and analytical approaches for students;

581-03357-17 20171598c1

strategies and tools based on student needs; competency-based instruction; integrated digital instruction; and project-based instruction.

Each school that includes any of grades 6, 7, or 8 must include in its school improvement plan, required under s. 1001.42(18), a description of the specific strategies used by the school to implement each item listed in this subparagraph.

(10) For instructional personnel and administrative personnel who have been evaluated as less than effective, a district school board shall require participation in specific professional development programs as provided in subparagraph (4)(b)5. ~~(4)(b)4.~~ as part of the improvement prescription.

(11) The department shall disseminate to the school community proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and engagement, ~~and~~ meeting identified student needs, and providing effective mentorship activities to new teachers and training to teacher mentors. The methods of dissemination must include a web-based statewide performance-support system including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available technical assistance.

Section 7. Section 1013.29, Florida Statutes, is created to read:

1013.29 High school educational facilities on a public or private postsecondary institution campus.—A county in which a public or private postsecondary institution is located may

581-03357-17 20171598c1

authorize a public high school educational facility, including a charter school educational facility, which meets the requirements of this chapter to be located on the postsecondary institution's campus.

Section 8. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1626

INTRODUCER: Criminal Justice Committee and Senator Bradley

SUBJECT: Department of Legal Affairs

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cellon</u>	<u>Hrdlicka</u>	<u>CJ</u>	Fav/CS
2. <u>McAuliffe</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3. <u>McAuliffe</u>	<u>Hansen</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1626 amends current law with respect to the Attorney General's duties and responsibilities.

The bill:

- Gives the Statewide Council on Human Trafficking the authority to apply for and accept grants, funds, gifts, and services from the state, the federal government, and other sources for the purpose of defraying the cost of the council's annual summit;
- Provides that the Attorney General may request the assignment of one or more Florida Highway Patrol officers to the Office of the Attorney General (OAG) for security services;
- Amends dates to keep Florida's Deceptive and Unfair Trade Practices Act current with applicable federal law and rules;
- Provides a definition of "virtual currency" and amends the term "monetary instruments" to include "virtual currency" in the Money Laundering Act;
- Amends the Trust Code related to charitable trusts to allow the Attorney General to take over for the 20 state attorneys in matters involving oversight of charitable trusts, to require delivery of notice, and to give legal standing to the Attorney General under circumstances where a trustee of a charitable trust seeks to modify the status of the trust or its beneficiaries; and;
- Creates s. 960.201, F.S., providing for compensation awards for loss of support to surviving family members of an emergency responder who dies in the line of duty while answering a call for service.

The bill will have a positive fiscal impact on the Statewide Council on Human Trafficking and surviving family members of first responders. The Department of Highway Safety and Motor Vehicles have been providing security services for the Attorney General and should be able to continue to absorb the costs with existing resources. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2017.

II. Present Situation:

The Attorney General is charged with all common law powers and duties pertaining to the office unless they have been expressly restricted or modified by statute or the state constitution.¹

The Attorney General is the chief law officer of the state and, absent express legislative restriction, may exercise such power and authority as the public interest may require.² As chief legal officer of the state, the Attorney General must be noticed in certain proceedings under Florida law and may bring actions on behalf of citizens of the state as provided for by law.³

The Attorney General is also the head of the Department of Legal Affairs.⁴ The Department of Legal Affairs (DLA) is responsible for providing all legal services required by any executive department unless otherwise provided by law. Additionally, DLA administers certain trust funds and related programs that support crime victim services, criminal investigations,⁵ and crime prevention.⁶

The Office of the Statewide Prosecution prosecutes crimes that impact two or more judicial circuits in the state. The Statewide Prosecutor is appointed by the Attorney General and serves a term of four years.⁷ The office focuses on complex, often large scale, organized criminal activity, including violations of the Florida Money Laundering Act.⁸

III. Effect of Proposed Changes:

This bill makes changes and updates in many subject areas of the Office of the Attorney General's jurisdiction and duties.

Statewide Council on Human Trafficking

The Statewide Council on Human Trafficking resides within DLA "for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support

¹ Section 16.01, F.S., *State ex rel. Shevin v. Exxon Corp.*, 526 F.2d 266 (5th Cir. 1976).

² *State ex rel. Shevin v. Exxon Corp.*, 526 F.2d 266 (5th Cir. 1976).

³ *State ex rel. Landis v. S.H. Kress & Co.*, 115 Fla. 189 (Fla. 1934).

⁴ Section 16.015, F.S.

⁵ Sections 16.555 and 16.556, F.S.

⁶ Section 16.54, F.S.

⁷ Section 16.56, F.S.; see also, DLA, "Office of Statewide Prosecution," available at

<http://www.myfloridalegal.com/pages.nsf/Main/D243EF87774E965185256CC600785693> (last visited March 23, 2017).

⁸ Sections 896.101 and 16.56(1)(a)13., F.S.

victims.”⁹ One of the duties of the council is to hold an annual statewide policy summit, but there is no dedicated funding source for the council to spend on the annual policy summit. **Section 1** amends s. 16.617, F.S., to give the council the authority to apply for and accept grants, funds, gifts, and services from the state, the federal government, and other sources for the purpose of defraying the cost of the annual summit.

Security Detail

The Department of Highway Safety and Motor Vehicles assigns one Florida Highway Patrol officer as security detail for the Governor. The implementing bill for the 2016 General Appropriations Act provided for assignment of a patrol officer to each member of the Cabinet for the 2015-2016 and 2016-2017 fiscal years, as deemed appropriate by the Department of Highway Safety and Motor Vehicles or upon written request of the Cabinet member.¹⁰ **Section 2** amends s. 321.04, F.S., to allow the Attorney General to request the assignment of one or more Florida Highway Patrol officers to the Office of the Attorney General for security services.

Florida Deceptive and Unfair Trade Practices Act

The Attorney General is largely responsible, through the DLA, for enforcing the “Florida Deceptive and Unfair Trade Practices Act” (FDUPTA).¹¹

A violation of the FDUPTA or related rules is statutorily defined as being tied to federal law relating to consumer protection.¹² In order to adopt any changes in the rules of the Federal Trade Commission Act, and therefore keep the Florida Statutes current, the date appearing in ss. 501.203(3) and 501.204(2), F.S., is amended in **Sections 3 and 4** of the bill to read “July 1, 2017.”

Charitable Trusts

The Florida Trust Code appears in ch. 736, F.S. The Attorney General currently has the authority under s. 736.0100, F.S., to assert the rights of a qualified beneficiary of certain charitable trusts.¹³

Sections 5-11 of the bill amend the Trust Code related to charitable trusts in numerous sections to accomplish two purposes. The first is to provide for the Attorney General to fulfill the role of the local state attorney in matters involving oversight of charitable trusts if it becomes necessary. The other purpose is to require delivery of notice to and give legal standing to the Attorney General under circumstances where a trustee of a charitable trust seeks to modify the status of

⁹ Section 16.617, F.S.

¹⁰ Current subsection (4) of s. 321.04, F.S., will expire on July 1, 2017. It was enacted “[i]n order to implement Specific Appropriation 2580 and section 85 of the 2016-2017 General Appropriations Act.”

¹¹ Part II of ch. 501, F.S., (Florida Deceptive and Unfair Trade Practices Act). If a violation occurs in a particular judicial circuit, the state attorney has the authority to enforce the act; however, the state attorney may defer to the DLA, or if the violation occurs in more than one judicial circuit, the DLA is the “enforcing authority.” s. 501.203(2), F.S.

¹² Sections 501.202(3), 501.203(3), and 501.204(2), F.S.

¹³ Section 736.0110(3), F.S.

the trust or its beneficiaries.¹⁴ These revisions in current law will allow the Attorney General to carry out the responsibilities set forth in s. 736.0110, F.S., in a more consistent and effective manner.

Virtual Currency

Section 12 of the bill creates a definition that recognizes the existence of “virtual currency” in the realm of finances.¹⁵ In s. 896.101, F.S., of the Money Laundering Act, the new definition provides that virtual currency means “a medium of exchange in electronic or digital format which is not a coin or currency of the United States or another country.”¹⁶ The term “monetary instruments” is amended to include the term “virtual currency.”¹⁷ These changes will update the Money Laundering Act to account for emerging and new types of currency used in transactions.

Crimes Compensation Act

The Crimes Compensation Act exists in ss. 960.01-960.28, F.S., and conveys many duties and responsibilities upon the Attorney General’s Victims’ Services Office. Under this Act, claims are filed and payment is made to crime victims according to the criteria set forth in ss. 960.065, 960.07, 960.12, and 960.13, F.S.

Sections 13-15 of the bill amend the Crimes Compensation Act to create s. 960.201, F.S., specifically providing for compensation awards for loss of support to surviving family members of an emergency responder who dies in the line of duty while answering a call for service.

The bill defines “crime” in s. 960.03(3)(f), F.S., as “a felony or misdemeanor that results in the death of an emergency responder, as defined in and solely for the purposes of s. 960.201, F.S., while answering a call for service in the line of duty.” “Emergency responder” means a law enforcement officer, a firefighter, or an emergency medical technician or paramedic.

The bill amends s. 960.16, F.S., to waive the state’s subrogation rights for awards made under s. 960.201, F.S.

¹⁴ See ss. 736.0110, 736.1201, 736.1205, 736.1206, 736.1207, 736.1208, and 736.1209, F.S. See also, *Delaware. ex rel. Gebelein v. Florida First National Bank*, 381 So.2d 1075 (Fla. 1st DCA 1979) and *Biden v. Lord*, 147 So.3d 632 (Fla. 1st DCA 2014).

¹⁵ Virtual currency is a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value. Virtual currency that has an equivalent value in real currency, or that acts as a substitute for real currency, is referred to as “convertible” virtual currency. Bitcoin is one example of a convertible virtual currency. Bitcoin can be digitally traded between users and can be purchased for, or exchanged into, U.S. dollars, Euros, and other real or virtual currencies. Notice 2014-21, “IRS Virtual Currency Guidance: Virtual Currency Is Treated as Property for U.S. Federal Tax Purposes; General Rules for Property Transactions Apply,” IR-2014-36, March. 25, 2014, available at <https://www.irs.gov/uac/newsroom/irs-virtual-currency-guidance> (last visited March 23, 2017).

¹⁶ A recent ruling by a Miami trial court dismissed a case in which the defendant was charged with a violation of s. 560.125(5)(a), F.S (money service business), and money laundering (s. 896.101 (5)(a) and (5)(b), F.S.). Although the ruling was based in large part on other facts in the case, the court included the finding that “...Bitcoin has a long way to go before it is the equivalent of money. The Florida Legislature may choose to adopt statutes regulating virtual currency in the future. At this time, however, attempting to fit the sale of Bitcoin into a statutory scheme regulating money services is like fitting a square peg in a round hole.” *State v. Espinoza*, Case No. F14-2923, 11th Judicial Circuit, Miami-Dade County, Florida, order dated July 22, 2016.

¹⁷ Section 896.101(e), F.S.

The DLA may award one claim, up to a maximum of \$50,000, to the emergency responder's surviving family members. If two or more persons are entitled to an award, then the award may be apportioned among the claimants at the discretion of the DLA. An award will be reduced or denied if the DLA has previously paid or approved a claim to the same victim or applicant regarding the same incident.

In evaluating the claim, the DLA must determine if the emergency responder had any contribution to his or her death due to his or her conduct, but may disregard such contribution if the record shows that the conduct occurred when he or she was acting as an intervener. The award amount may be reduced or denied by the DLA based on the outcome of the determination.

The DLA is authorized to adopt rules to implement these provisions.

Effective Date

The effective date of the bill is July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Surviving family members of an emergency responder who dies in the line of duty while answering a call for service may be entitled to claims under the Crimes Compensation Act.

C. Government Sector Impact:

To the extent there is a fiscal impact related to Sections 13-15 of CS/SB 1626 (emergency responder death benefits), the Attorney General's Office reports that it can be absorbed by the Victims Compensation Trust Fund.

The Department of Highway Safety and Motor Vehicles have been providing security services for the Attorney General and should be able to continue to absorb the costs with existing resources.¹⁸

The Statewide Council on Human Trafficking will be able to apply for and accept grants, funds, gifts, and services from the state, the federal government, and other sources for the purpose of defraying the cost of the annual summit, as provided in Section 1.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Legal Affairs (DLA) is authorized to adopt rules to implement the emergency responder death benefits in the Crimes Compensation Act.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.617, 321.04, 501.203, 501.204, 736.0110, 736.1201, 736.1205, 736.1206, 736.1207, 736.1208, 736.1209, 896.101, 960.03, 960.16, and 960.201.

IX. Additional Information:

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

CS by Criminal Justice on March 27, 2017:

The committee substitute:

- Removed the amendment to s. 560.103, F.S., that added the term “virtual currency” to the Money Services Business chapter.
- Removed the amendment to s. 741.403, F.S., that added family to the address confidentiality program for victims of domestic violence.
- Amended s. 896.101(2)(e), F.S., to include the term “virtual currency” within the definition of “monetary instruments” in the Money Laundering Act.

- B. **Amendments:**

None.

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

¹⁸ Ch. 2016-16, s. 109, Laws of Florida.

By the Committee on Criminal Justice; and Senator Bradley

591-02919-17

20171626c1

1 A bill to be entitled
 2 An act relating to the Department of Legal Affairs;
 3 amending s. 16.617, F.S.; authorizing the Statewide
 4 Council on Human Trafficking to apply for and accept
 5 funds, grants, gifts, and services from various
 6 governmental entities or any other public or private
 7 source for a specified purpose; amending s. 321.04,
 8 F.S.; requiring the Department of Highway Safety and
 9 Motor Vehicles to assign one or more patrol officers
 10 to the Office of the Attorney General for security
 11 services upon request of the Attorney General;
 12 amending s. 501.203, F.S.; redefining the term
 13 "violation of this part"; amending s. 501.204, F.S.;
 14 revising legislative intent; amending s. 736.0110,
 15 F.S.; providing that the Attorney General has standing
 16 to assert the rights of certain qualified
 17 beneficiaries in judicial proceedings; amending s.
 18 736.1201, F.S.; defining the term "delivery of
 19 notice"; deleting the term "state attorney"; amending
 20 s. 736.1205, F.S.; requiring a trustee to provide a
 21 specified notice to the Attorney General rather than
 22 the state attorney; amending s. 736.1206, F.S.;
 23 revising the conditions under which a trustee may
 24 amend the governing instrument of a specified
 25 charitable trust to comply with specified provisions
 26 of ch. 736, F.S.; amending s. 736.1207, F.S.;
 27 conforming a term; amending s. 736.1208, F.S.;
 28 revising the manner in which delivery of a release is
 29 accomplished; conforming provisions to changes made by

591-02919-17

20171626c1

30 the act; amending s. 736.1209, F.S.; revising
 31 requirements for a trustee of a specified trust who
 32 elects to be operated exclusively for the benefit of,
 33 and be supervised by, the specified public charitable
 34 organization or organizations; amending s. 896.101,
 35 F.S.; amending the term "monetary instruments";
 36 defining the term "virtual currency"; amending s.
 37 960.03, F.S.; revising definitions; amending s.
 38 960.16, F.S.; providing an exception to a subrogation
 39 requirement for awards; creating s. 960.201, F.S.;
 40 defining terms; authorizing the Department of Legal
 41 Affairs to award the surviving family of members of an
 42 emergency responder who is killed under specified
 43 circumstances up to a specified amount; specifying
 44 requirements to determine the award amount; requiring
 45 apportionment of the award among several claimants
 46 under certain circumstances; requiring an award to be
 47 reduced or denied by the department under certain
 48 circumstances; authorizing rulemaking; providing an
 49 effective date.

50
 51 Be It Enacted by the Legislature of the State of Florida:

52
 53 Section 1. Paragraph (d) is added to subsection (3) of
 54 section 16.617, Florida Statutes, to read:
 55 16.617 Statewide Council on Human Trafficking; creation;
 56 membership; duties.—
 57 (3) ORGANIZATION AND SUPPORT.—
 58 (d) The council may apply for and accept funds, grants,

591-02919-17 20171626c1

59 gifts, and services from the state, the Federal Government or
 60 any of its agencies, or any other public or private source for
 61 the purpose of defraying costs associated with the annual
 62 statewide policy summit.

63 Section 2. Present subsection (4) of section 321.04,
 64 Florida Statutes, is redesignated as subsection (5), and a new
 65 subsection (4) is added to that section, to read:

66 321.04 Personnel of the highway patrol; rank
 67 classifications; probationary status of new patrol officers;
 68 subsistence; special assignments.—

69 (4) Upon request of the Attorney General, the Department of
 70 Highway Safety and Motor Vehicles shall assign one or more
 71 patrol officers to the Office of the Attorney General for
 72 security services.

73 Section 3. Subsection (3) of section 501.203, Florida
 74 Statutes, is amended to read:

75 501.203 Definitions.—As used in this chapter, unless the
 76 context otherwise requires, the term:

77 (3) "Violation of this part" means any violation of this
 78 act or the rules adopted under this act and may be based upon
 79 any of the following as of July 1, 2017 ~~2015~~:

80 (a) Any rules promulgated pursuant to the Federal Trade
 81 Commission Act, 15 U.S.C. ss. 41 et seq.;

82 (b) The standards of unfairness and deception set forth and
 83 interpreted by the Federal Trade Commission or the federal
 84 courts; or

85 (c) Any law, statute, rule, regulation, or ordinance which
 86 proscribes unfair methods of competition, or unfair, deceptive,
 87 or unconscionable acts or practices.

591-02919-17 20171626c1

88 Section 4. Subsection (2) of section 501.204, Florida
 89 Statutes, is amended to read:

90 501.204 Unlawful acts and practices.—

91 (2) It is the intent of the Legislature that, in construing
 92 subsection (1), due consideration and great weight shall be
 93 given to the interpretations of the Federal Trade Commission and
 94 the federal courts relating to s. 5(a)(1) of the Federal Trade
 95 Commission Act, 15 U.S.C. s. 45(a)(1) as of July 1, 2017 ~~2015~~.

96 Section 5. Subsection (3) of section 736.0110, Florida
 97 Statutes, is amended to read:

98 736.0110 Others treated as qualified beneficiaries.—

99 (3) The Attorney General may assert the rights of a
 100 qualified beneficiary with respect to a charitable trust having
 101 its principal place of administration in this state. The
 102 Attorney General has standing to assert such rights in any
 103 judicial proceeding.

104 Section 6. Present subsections (2), (3), and (4) of section
 105 736.1201, Florida Statutes, are redesignated as subsections (3),
 106 (4), and (5), respectively, a new subsection (2) is added to
 107 that section, and present subsection (5) of that section is
 108 amended, to read:

109 736.1201 Definitions.—As used in this part:

110 (2) "Delivery of notice" means delivery of a written notice
 111 required under this part by sending a copy by any commercial
 112 delivery service requiring a signed receipt or by any form of
 113 mail requiring a signed receipt.

114 ~~(5) "State attorney" means the state attorney for the~~
 115 ~~judicial circuit of the principal place of administration of the~~
 116 ~~trust pursuant to s. 736.0108.~~

591-02919-17

20171626c1

Section 7. Section 736.1205, Florida Statutes, is amended to read:

736.1205 Notice that this part does not apply.—In the case of a power to make distributions, if the trustee determines that the governing instrument contains provisions that are more restrictive than s. 736.1204(2), or if the trust contains other powers, inconsistent with the provisions of s. 736.1204(3) that specifically direct acts by the trustee, the trustee shall notify the state Attorney General when the trust becomes subject to this part. Section 736.1204 does not apply to any trust for which notice has been given pursuant to this section unless the trust is amended to comply with the terms of this part.

Section 8. Subsection (2) of section 736.1206, Florida Statutes, is amended to read:

736.1206 Power to amend trust instrument.—

(2) In the case of a charitable trust that is not subject to ~~the provisions of~~ subsection (1), the trustee may amend the governing instrument to comply with ~~the provisions of~~ s. 736.1204(2) after delivery of notice to, and with the consent of, the state Attorney General.

Section 9. Section 736.1207, Florida Statutes, is amended to read:

736.1207 Power of court to permit deviation.—This part does not affect the power of a court to relieve a trustee from any restrictions on the powers and duties that are placed on the trustee by the governing instrument or applicable law for cause shown and on complaint of the trustee, state Attorney General, or an affected beneficiary and notice to the affected parties.

Section 10. Paragraph (b) of subsection (4) of section

591-02919-17

20171626c1

736.1208, Florida Statutes, is amended to read:

736.1208 Release; property and persons affected; manner of effecting.—

(4) Delivery of a release shall be accomplished as follows:

(b) If the release is accomplished by reducing the class of permissible charitable organizations, by delivery of notice a copy of the release to the ~~state~~ Attorney General including a copy of the release.

Section 11. Section 736.1209, Florida Statutes, is amended to read:

736.1209 Election to come under this part.—With the consent of that organization or organizations, a trustee of a trust for the benefit of a public charitable organization or organizations may come under s. 736.1208(5) by delivery of notice to filing ~~with the state Attorney General of the an~~ election, accompanied by the proof of required consent. Thereafter the trust shall be subject to s. 736.1208(5).

Section 12. Paragraph (e) of subsection (2) of section 896.101, Florida Statutes, is amended, and paragraph (j) is added to that subsection, to read:

896.101 Florida Money Laundering Act; definitions; penalties; injunctions; seizure warrants; immunity.—

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

(e) "Monetary instruments" means coin or currency of the United States or of any other country, virtual currency, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title

591-02919-17

20171626c1

thereto passes upon delivery.

(j) "Virtual currency" means a medium of exchange in electronic or digital format which is not a coin or currency of the United States or another country.

Section 13. Paragraph (f) is added to subsection (3) of section 960.03, Florida Statutes, and paragraph (e) is added to subsection (14) of that section, to read:

960.03 Definitions; ss. 960.01-960.28.—As used in ss. 960.01-960.28, unless the context otherwise requires, the term:

(3) "Crime" means:

(f) A felony or misdemeanor that results in the death of an emergency responder, as defined in and solely for the purposes of s. 960.201, while answering a call for service in the line of duty, notwithstanding paragraph (c).

(14) "Victim" means:

(e) An emergency responder, as defined in and solely for the purposes of s. 960.201, who is killed while answering a call for service in the line of duty.

Section 14. Section 960.16, Florida Statutes, is amended to read:

960.16 Subrogation.—~~Except for an award made under s. 960.201,~~ payment of an award pursuant to this chapter shall subrogate the state, to the extent of such payment, to any right of action accruing to the claimant or to the victim or intervenor to recover losses directly or indirectly resulting from the crime with respect to which the award is made. Causes of action which shall be subrogated under this section include, but are not limited to, any claim for compensation under any insurance provision, including an uninsured motorist provision,

591-02919-17

20171626c1

when such claim seeks to recover losses directly or indirectly resulting from the crime with respect to which the award is made.

Section 15. Section 960.201, Florida Statutes, is created to read:

960.201 Emergency responder death benefits.—

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

(a) "Answering a call for service" means actively performing official duties that include the identification, prevention, or enforcement of the penal, traffic, or highway laws of this state; and include traveling to the scene of an emergency situation and upon arrival performing those functions that the emergency responder has been trained and certified to perform.

(b) "Emergency medical technician" has the same meaning as in s. 401.23(11).

(c) "Emergency responder" means a law enforcement officer, a firefighter, or an emergency medical technician or paramedic.

(d) "Firefighter" has the same meaning as in s. 633.102(9).

(e) "Law enforcement officer" has the same meaning as in s. 943.10(1).

(f) "Paramedic" has the same meaning as in s. 401.23(17).

(g) "Surviving family members of an emergency responder" means the surviving spouse, children, parents or guardian, or siblings of a deceased emergency responder.

(2) Notwithstanding ss. 960.065(1) and 960.13 for crime victim compensation awards, the department may award for any one claim up to a maximum of \$50,000 to the surviving family members of an emergency responder who, as a result of a crime, is killed

591-02919-17

20171626c1

233 answering a call for service in the line of duty.

234 (3) In determining the amount of an award:

235 (a) The department shall determine whether, because of his
236 or her conduct, the emergency responder contributed to his or
237 her death, and shall reduce the amount of the award or reject
238 the claim altogether in accordance with such determination.

239 (b) The department may disregard the contribution of the
240 emergency responder to his or her own death, as determined under
241 paragraph (a), when the record shows that such conduct occurred
242 in connection with the efforts of the emergency responder acting
243 as an intervenor as defined in s. 960.03.

244 (4) If two or more persons are entitled to an award under
245 this section, the award shall be apportioned among the claimants
246 at the discretion and direction of the department.

247 (5) An award under this section shall be reduced or denied
248 if the department has previously approved or paid out a claim
249 under s. 960.13 to the same victim or applicant regarding the
250 same incident. An award for victim compensation under s. 960.13
251 shall be denied if the department has previously approved or
252 paid out an emergency responder death benefits claim under this
253 section.

254 (6) The department may adopt rules that establish limits
255 below the amount set forth in subsection (2) and that establish
256 criteria governing awards pursuant to this section.

257 Section 16. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 1710 (613868)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Pre- K- 12 Education); and Senators Stargel and Grimsley

SUBJECT: Education

DATE: April 24, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Bouck	Graf	ED	Favorable
2. Sikes	Elwell	AED	Recommend: Fav/CS
3. Sikes	Hansen	AP	Pre-meeting
4. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1710 designates the month of September as “American Founders’ Month” and authorizes the Governor to issue a proclamation urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize, observe, and celebrate the month. Specifically, the bill:

- Encourages all public schools to observe “American Founders’ Month” with appropriate instruction and activities.
- Establishes civic literacy as a priority of Florida’s K-20 education system.
- Requires the Just Read, Florida! Office to develop and provide access to sequenced, content-rich programming, instructional practices, and resources to increase students’ core knowledge and literacy skills including student attainment of state standards for social studies, science, and the arts.
- Requires students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, to demonstrate civic literacy through successful completion of a course or by achieving a passing score on an assessment adopted in rule by the State Board of Education or in regulation by the Board of Governors, as applicable.

The bill does not impact state revenues or expenditures.

The bill takes effect on July 1, 2017.

II. Present Situation:

Florida has established mechanisms to increase the civic awareness and engagement among students through civic-engagement skills in the curriculum standards for all subjects,¹ and specifically social studies;² a middle grades civics education course³ and end-of-course assessment;⁴ and the inclusion of such end-of-course assessment in the calculation of school grades.⁵

Priorities of the K-20 Education System

The mission of Florida's K-20 education system is to allow students to increase their proficiency by providing the opportunity to expand their knowledge and skills through rigorous and relevant learning opportunities.⁶ As such, the priorities of Florida's K-20 education system include:⁷

- Demonstration that all students meet the expected academic standards consistently at all levels of their education.
- Learning and completion at all levels, so that all students demonstrate increased learning and completion at all levels, graduate from high school, and are prepared to enter postsecondary education without remediation.
- Alignment of standards and resources for every level of the K-20 education system.
- Improved educational leadership at all levels of K-20 education.
- Alignment of workforce education with skills required by the new global economy.
- Collaboration between parents, students, families, educational institutions, and communities as important to each individual student's success; the goals of Florida's K-20 education system are not guarantees that each individual student will succeed or that each individual school will perform at the level indicated in the goals.
- Comprehensive K-20 career and education planning to better prepare all students at every level for the transition from school to postsecondary education or work.

Patriotic Programs

District school boards are authorized to adopt rules that require patriotic programs in district schools that encourage respect for the United States government, the national anthem, and the flag.⁸ The law also specifies procedures for the playing of the national anthem and recitation of the pledge of allegiance to the flag in public schools and at school-sponsored functions.⁹ The

¹ Section 1003.41(1), F.S.

² Section 1003.41(2)(d), F.S.

³ Section 1003.4156(1)(c), F.S. The one-semester civics education course must include the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States. *Id.*

⁴ Section 1008.22(3)(b)1., F.S.

⁵ Section 1008.34(3)(b)1.d., F.S.

⁶ Section 1000.03(4), F.S.

⁷ *Id.* at (5).

⁸ Section 1003.44(1), F.S.

⁹ *Id.*

pledge must be recited at the beginning of the day in each public school in the state.¹⁰ Students must be excused from reciting the pledge if his or her parent submits a written request.¹¹

Postsecondary Requirements

Civics Instruction

Currently, there is not a state civics requirement for students attending a Florida public postsecondary institution.¹² Students in the Florida College System and State University System are offered opportunities to study civics through courses in their general education core curriculum, as well as in civics courses in specific programs of study.¹³

Florida law requires a student to complete at least one social science course as a part of the general education core degree requirement.¹⁴ The courses available to complete this requirement are in:¹⁵

- American History;
- Anthropology;
- Macroeconomics;
- American Government;
- Psychology; and
- Sociology.

Of the social science courses taken in 2014-15, 45 percent were civics related.¹⁶ Also, 17 percent of all university undergraduates, and 21 percent of all college students enrolled in college-credit courses took at least one civics-related course in 2014-2015.¹⁷

Degree Requirements

The following state-level requirements apply to students seeking an associate in arts or baccalaureate degree from a Florida public postsecondary institution:

- Completion of 36 semester hours of general education coursework in the areas of communication, humanities, mathematics, natural science, and social science.¹⁸

¹⁰ *Id.*

¹¹ *Id.*

¹² Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education*, at 8, presentation to the House of Representatives PreK-12 Quality Subcommittee (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

¹³ *Id.* at 10.

¹⁴ Section 1007.25(3), F.S.

¹⁵ Rule 6A-14.0303, F.A.C.

¹⁶ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education*, at 14, presentation to the House of Representatives PreK-12 Quality Subcommittee (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>. Psychology was the most popular social science general education course.

¹⁷ *Id.* at 11. These include American History, Government, and Economics.

¹⁸ Section 1007.25, F.S. See also Rule 6A-10.024(2)(a) and (3)(a), F.A.C., Rule 6A-10.030(1) and (2), F.A.C., and BOG Regulation 6.017(1)(a).

- Beginning with students initially entering a Florida College System institution or state university in 2015-2016 and thereafter, complete at least one identified core course in each subject area as part of the general education course requirements.¹⁹
- Beginning with students initially entering a Florida College System institution or state university in 2014-2015 and thereafter, coursework for an associate in arts degree must include demonstration of competency in a foreign language.²⁰
- Completion of six semester hours of English coursework, six semester hours of other coursework in which the student is required to demonstrate college-level writing skills through multiple assignments, and six semester hours of mathematics at the level of college algebra or higher.²¹
- For associate in arts degrees, students initially entering a Florida College System institution in 2013-2014 and thereafter, must indicate a baccalaureate degree program offered by an institution of interest by the time the student earns 30 semester hours.²²
- For an associate in arts degree, completion of no more than 60 semester hours of college credit;²³ for a baccalaureate degree, completion of no more than 120 semester hours of college credit.²⁴

Students in associate in science and associate in applied science degree programs must satisfactorily complete a planned program of instruction comprised of the established credit hour length²⁵ and complete fifteen semester credit hours of general education coursework.²⁶

Just Read, Florida!

In 2001,²⁷ Governor Jeb Bush established Just Read, Florida! as a comprehensive and coordinated reading initiative intended to establish reading as a core value in this state. In 2006,²⁸ the Legislature created within the DOE the Just Read, Florida! Office. Among its duties, the Just Read, Florida! Office must:²⁹

- Create multiple designations of effective reading instruction, with accompanying credentials, which encourage all teachers to integrate reading instruction into their content areas.
- Train K-12 teachers and school principals on effective content-area-specific reading strategies. For secondary teachers, emphasis must be on technical text.
- Provide parents with information and strategies for assisting their children in reading in the content area.

¹⁹ Section 1007.25(3), F.S.

²⁰ Section 1007.25(7), F.S.

²¹ Rule 6A-10.030, F.A.C. and BOG Regulation 6.017(1)(a)

²² Section 1007.23(3), F.S. and 6A-10.024(4), F.A.C.

²³ Students must achieve a cumulative grade point average of 2.0. Rule 6A-10.024, F.A.C.

²⁴ 1007.25(7) and (8), F.S. See also Rule 6A-14.030(2), F.A.C., Rule 6A.10.024(3)(a), F.A.C., and BOG Regulation 6.017(1)(c). The 120 semester hour limit may be waived with prior approval by the Board of Governors for baccalaureate degree programs offered by state universities and by the State Board of Education for baccalaureate degree programs offered by Florida College System institutions. Section 1007.25(8), F.S.

²⁵ Rule 6A-6.0571, F.A.C.

²⁶ Rule 6A-14.030, F.A.C. and 6A-10.024(6)(b), F.A.C.

²⁷ Executive Order 01-260 (2001)

²⁸ Section 8, ch. 2006-74, L.O.F.

²⁹ Section 1001.215, F.S.

- Provide technical assistance to school districts in the development and implementation of the K-12 comprehensive reading plan.
- Work with the Florida Center for Reading Research to provide information on research-based reading programs and effective reading in the content area strategies.
- Periodically review the Sunshine State Standards for reading at all grade levels.
- Periodically review teacher certification examinations, including alternative certification exams, to ascertain whether the examinations measure the skills needed for research-based reading instruction and instructional strategies for teaching reading in the content areas.
- Work with approved teacher preparation programs to integrate research-based reading instructional strategies and reading in the content area instructional strategies.

III. Effect of Proposed Changes:

Section 1 creates s. 683.1455, F.S., to designate the month of September as “American Founders’ Month” and authorize the Governor to issue a proclamation urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize, observe, and celebrate the month. Specifically, this section:

- Encourages all public schools to observe “American Founders’ Month” with appropriate instruction and activities.
- Establishes civic literacy as a priority of Florida’s K-20 education system.
- Requires the Just Read, Florida! Office to develop and provide access to sequenced, content-rich programming, instructional practices, and resources to increase students’ core knowledge and literacy skills including student attainment of state standards for social studies, science, and the arts.
- Requires students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, to demonstrate civic literacy through successful completion of a course or by achieving a passing score on an assessment adopted in rule by the State Board of Education or in regulation by the Board of Governors, as applicable.

Priorities of the K-20 Education System (Section 2)

Section 2 amends s. 1000.03, F.S., to extend the scope of Florida’s K-20 education system to establish civic literacy as a priority. Specifically, this section includes as a priority of Florida’s K-20 education system that students “are prepared become civically engaged and knowledgeable adults who make positive contributions to their communities.”

Patriotic Programs (Sections 1 and 4)

As a component of the required instruction relating to patriotic programs, section 4 amends s. 1003.44, F.S., to encourage all public schools in Florida to coordinate, at all grade levels, instruction related to our nation’s Founding Fathers in “American Founders’ Month.” Also, section 1 encourages civic, fraternal, and religious organizations and public and private educational institutions to recognize and observe “American Founders’ Month” through programs, meetings, services, or celebrations in which state, county, and local government officials are invited to participate.

Postsecondary Requirements (Sections 5, 6, and 7)

Section 5 amends s. 1007.25, F.S., to create an additional requirement for students in degree programs at Florida public postsecondary institutions. This section requires that, beginning with students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, each student must demonstrate competency in civic literacy. Demonstration of competency may be through successful completion of a new civic literacy course or revised American History or American Government course, which includes civic literacy, or by achieving a passing score on an existing assessment adopted in State Board of Education (SBE) rule or Board of Governors (BOG) regulation. The chairs of the SBE and BOG must jointly appoint a faculty committee to:

- Develop a new course in civic literacy or revise an existing American History or American Government course, which includes civic literacy.
- Establish course competencies and identify outcomes that include, at a minimum:
 - An understanding of the basic principles of American democracy and how they are applied in our republican form of government.
 - An understanding of the United States Constitution.
 - Knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance.
 - An understanding of landmark Supreme Court cases and their impact on law and society.

Sections 6 and 7 amend ss. 943.22 and 1001.64, F.S., respectively, to correct cross references changed as a result of the modifications to s. 1007.25, F.S.

Just Read, Florida! (Section 3)

Section 3 amends s. 1001.215, F.S., to require the Just Read, Florida! Office to develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students' core knowledge and literacy skills, including student attainment of the Next General Sunshine State Standards for social studies, science, and the arts.

The bill takes effect on July 1, 2017.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

This bill may have a fiscal impact on students if the students are required to pay for the cost of the civics literacy assessment. In addition, if civic literacy competence is a graduation requirement, a student unable to pass the required assessment or course may have to pay additional tuition and fees to retake a course or may delay graduation.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures.

VI. Technical Deficiencies:

Lines 75-77 of the bill require each student initially enrolling in a Florida College System institution or state university in 2018-2019, and thereafter, to demonstrate competency in civic literacy. However, it is unclear if civic literacy competency is a graduation requirement. It is also unclear if the requirement applies to all students or only degree-seeking students.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 943.22, 1000.03, 1001.215, 1001.64, 1003.44, and 1007.25.

This bill creates section 683.1455 of Florida Statutes.

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

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

Recommended CS by Appropriations Subcommittee on Pre-K-12 Education on April 13, 2017:

The committee substitute modifies the postsecondary civic literacy requirement by:

- Specifying that the State Board of Education and Board of Governors must adopt at least one existing civics assessment to measure course competencies established in the bill.
- Specifying that the joint faculty committee established in the bill must develop a new civic literacy course or revise an existing general education core course in American History or American Government to include civic literacy.

B. Amendments:

None.

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



866412

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Between lines 60 and 61
insert:

Section 4. Sections 5 and 6 of this act may be cited as the
"Dorothy L. Hukill Financial Literacy Education Act."

Section 5. Paragraph (d) of subsection (2) of section
1003.41, Florida Statutes, is amended, and paragraph (f) is
added to that subsection, to read:

1003.41 Next Generation Sunshine State Standards.—



866412

(2) Next Generation Sunshine State Standards must meet the following requirements:

(d) Social Studies standards must establish specific curricular content for, at a minimum, geography, United States and world history, government, civics, humanities, and economics, including financial literacy. Financial literacy includes the knowledge, understanding, skills, behaviors, attitudes, and values that will enable a student to make responsible and effective financial decisions on a daily basis. Financial literacy instruction shall be an integral part of instruction throughout the entire economics course and include information regarding earning income; buying goods and services; saving and financial investing; taxes; the use of credit and credit cards; budgeting and debt management, including student loans and secured loans; banking and financial services; planning for one's financial future, including higher education and career planning; credit reports and scores; and fraud and identity theft prevention. The requirements for financial literacy specified under this paragraph do not apply to students entering grade 9 in the 2017-2018 school year and thereafter.

(f) Effective for students entering grade 9 in the 2017-2018 school year and thereafter, financial literacy standards must establish specific curricular content for, at a minimum, personal financial literacy and money management. Financial literacy includes instruction in the areas specified in s. 1003.4282(3)(h).

Section 6. Paragraphs (d) and (g) of subsection (3) of section 1003.4282, Florida Statutes, are amended, and paragraph (h) is added to that subsection, to read:



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1003.4282 Requirements for a standard high school diploma.—

(3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT
REQUIREMENTS.—

(d) *Three credits in social studies.*—A student must earn one credit in United States History; one credit in World History; one-half credit in economics, which must include financial literacy; and one-half credit in United States Government. The United States History EOC assessment constitutes 30 percent of the student's final course grade. However, for a student entering grade 9 in the 2017-2018 school year or thereafter, financial literacy is not a required component of the one-half credit in economics.

(g) ~~Eight~~ *Credits in Electives.*—School districts must develop and offer coordinated electives so that a student may develop knowledge and skills in his or her area of interest, such as electives with a STEM or liberal arts focus. Such electives must include opportunities for students to earn college credit, including industry-certified career education programs or series of career-themed courses that result in industry certification or articulate into the award of college credit, or career education courses for which there is a statewide or local articulation agreement and which lead to college credit. A student entering grade 9 before the 2017-2018 school year must earn eight credits in electives. A student entering grade 9 in the 2017-2018 school year or thereafter must earn seven and one-half credits in electives.

(h) *One-half credit in personal financial literacy.*—Beginning with students entering grade 9 in the 2017-2018 school year, each student shall earn one-half credit in personal



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financial literacy and money management. This instruction must include discussion of or instruction in the following:

1. Types of bank accounts offered, opening and managing a bank account, and assessing the quality of a depository institution's services.

2. Balancing a checkbook.

3. Basic principles of money management, such as spending, credit, credit scores, and managing debt, including retail and credit card debt.

4. Completing a loan application.

5. Receiving an inheritance and related implications.

6. Basic principles of personal insurance policies.

7. Computing federal income taxes.

8. Local tax assessments.

9. Computing interest rates by various mechanisms.

10. Simple contracts.

11. Contesting an incorrect billing statement.

12. Types of savings and investments.

13. State and federal laws concerning finance.

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

And the title is amended as follows:

Delete line 9

and insert:

schools; providing a short title; amending s. 1003.41, F.S.; revising the financial literacy requirements for the Next Generation Sunshine State Standards; amending s. 1003.4282, F.S.; revising the social studies requirements for a standard high school diploma;



866412

98 revising the required credits for a standard high
99 school diploma to seven and one-half, rather than
100 eight, credits in electives and to include one-half
101 credit of instruction in personal financial literacy
102 and money management; amending s. 1003.44, F.S.;
103 encouraging



753854

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment

Delete line 64

and insert:

(3) All public schools in the state, including charter schools, are encouraged to



733616

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 46 - 60

and insert:

Section 3. Section 1001.215, Florida Statutes, is amended to read:

1001.215 Just Read, Florida! Office.—There is created in the Department of Education the Just Read, Florida! Office. The office is ~~shall be~~ fully accountable to the Commissioner of Education and shall:



733616

11 (1) Train ~~highly effective~~ reading coaches.

12 (2) Create multiple designations of effective reading
13 instruction, with accompanying credentials, to enable ~~which~~
14 ~~encourage~~ all teachers to integrate reading instruction into
15 their content areas.

16 (3) Work with the Lastinger Center for Learning at the
17 University of Florida, to develop training for ~~train~~ K-12
18 teachers, reading coaches, and school principals on effective
19 content-area-specific reading strategies; the integration of
20 content knowledge-rich texts from other core subject areas into
21 reading instruction; evidence-based reading strategies
22 identified in subsection (7); and technology tools to improve
23 student reading performance. For secondary teachers, emphasis
24 shall be on technical text. These strategies must be developed
25 for all content areas in the K-12 curriculum.

26 (4) Develop and provide access to sequenced, content-rich
27 curriculum programming, instructional practices, and resources
28 that help elementary schools use state-adopted instructional
29 materials to increase students' core knowledge and literacy
30 skills, including student attainment of the Next Generation
31 Sunshine State Standards for social studies, science, and the
32 arts.

33 (5) ~~(4)~~ Provide parents with information and strategies for
34 assisting their children in reading, including reading in the
35 content areas ~~area~~.

36 (6) ~~(5)~~ Provide technical assistance to school districts in
37 the development and implementation of district plans for use of
38 the research-based reading instruction allocation provided in s.
39 1011.62(9) and annually review and approve such plans.



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(7)~~(6)~~ Review, evaluate, and provide technical assistance to school districts' implementation of the K-12 comprehensive reading plan required in s. 1011.62(9).

(8)~~(7)~~ Work with the Florida Center for Reading Research to identify scientifically researched and evidence-based reading instructional and intervention programs that incorporate explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and incorporate decodable or phonetic text instructional ~~provide information on research-based reading programs and effective reading in the content area strategies.~~ Reading intervention includes evidence-based strategies frequently used to remediate reading deficiencies and includes, but is not limited to, individual instruction, multisensory approaches, tutoring, mentoring, or the use of technology that targets specific reading skills and abilities.

(9)~~(8)~~ Periodically review the Next Generation Sunshine State Standards for English Language Arts to determine their appropriateness at each grade level ~~reading at all grade levels.~~

(10)~~(9)~~ Periodically review teacher certification requirements and examinations, including alternative certification requirements and examinations ~~exams~~, to ascertain whether the examinations measure the skills needed for evidence-based ~~research-based~~ reading instruction and instructional strategies for teaching reading, including reading in the content areas.

(11)~~(10)~~ Work with teacher preparation programs approved pursuant to ss. 1004.04 and 1004.85 to integrate effective, research-based and evidence-based reading instructional and



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69 intervention strategies, including explicit, systematic, and
70 sequential and reading strategies, multisensory intervention
71 strategies, and reading in the content area instructional
72 strategies into teacher preparation programs.

73 (12)(11) Administer grants and perform other functions as
74 necessary to help meet the goal that all students read at their
75 highest potential grade level.

76 Section 4. Paragraph (b) of subsection (2) of section
77 1004.04, Florida Statutes, is amended to read:

78 1004.04 Public accountability and state approval for
79 teacher preparation programs.—

80 (2) UNIFORM CORE CURRICULA AND CANDIDATE ASSESSMENT.—

81 (b) The rules to establish uniform core curricula for each
82 state-approved teacher preparation program must include, but are
83 not limited to, the following:

84 1. The Florida Educator Accomplished Practices.

85 2. The state-adopted content standards.

86 3. Scientifically researched and evidence-based reading
87 instructional strategies that improve reading performance for
88 all students, including explicit, systematic, and sequential
89 approaches to teaching phonemic awareness, phonics, vocabulary,
90 fluency, and text comprehension, and multisensory intervention
91 strategies instruction.

92 4. Content literacy and mathematics practices.

93 5. Strategies appropriate for the instruction of English
94 language learners.

95 6. Strategies appropriate for the instruction of students
96 with disabilities.

97 7. School safety.



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Section 5. Paragraph (a) of subsection (3) of section 1004.85, Florida Statutes, is amended to read:

1004.85 Postsecondary educator preparation institutes.—

(3) Educator preparation institutes approved pursuant to this section may offer competency-based certification programs specifically designed for noneducation major baccalaureate degree holders to enable program participants to meet the educator certification requirements of s. 1012.56. An educator preparation institute choosing to offer a competency-based certification program pursuant to the provisions of this section must implement a program previously approved by the Department of Education for this purpose or a program developed by the institute and approved by the department for this purpose. Approved programs shall be available for use by other approved educator preparation institutes.

(a) Within 90 days after receipt of a request for approval, the Department of Education shall approve a preparation program pursuant to the requirements of this subsection or issue a statement of the deficiencies in the request for approval. The department shall approve a certification program if the institute provides evidence of the institute's capacity to implement a competency-based program that includes each of the following:

1.a. Participant instruction and assessment in the Florida Educator Accomplished Practices.

b. The state-adopted student content standards.

c. Scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential



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approaches to teaching phonemic awareness, phonics, vocabulary,
fluency, and text comprehension, and multisensory intervention
strategies instruction.

d. Content literacy and mathematical practices.

e. Strategies appropriate for instruction of English
language learners.

f. Strategies appropriate for instruction of students with
disabilities.

g. School safety.

2. An educational plan for each participant to meet
certification requirements and demonstrate his or her ability to
teach the subject area for which the participant is seeking
certification, which is based on an assessment of his or her
competency in the areas listed in subparagraph 1.

3. Field experiences appropriate to the certification
subject area specified in the educational plan with a diverse
population of students in a variety of settings under the
supervision of qualified educators.

4. A certification ombudsman to facilitate the process and
procedures required for participants who complete the program to
meet any requirements related to the background screening
pursuant to s. 1012.32 and educator professional or temporary
certification pursuant to s. 1012.56.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 6 - 9

and insert:

amending s. 1001.215, F.S.; revising the duties of the



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156 Just Read, Florida! Office; amending s. 1004.04, F.S.;
157 revising core curricula requirements for certain
158 teacher preparation programs to include certain
159 reading instruction and interventions; amending s.
160 1004.85, F.S.; requiring certain educator preparation
161 institutes to provide evidence of specified reading
162 instruction as a condition of program approval and
163 continued approval; amending s. 1003.44, F.S.;
164 encouraging



613868

576-04123-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Pre-K - 12 Education)

A bill to be entitled

An act relating to education; creating s. 683.1455, F.S.; designating the month of September as "American Founders' Month"; amending s. 1000.03, F.S.; revising the priorities of Florida's K-20 education system; amending s. 1001.215, F.S.; revising the duties of the Just Read, Florida! Office to include developing and providing access to certain resources for elementary schools; amending s. 1003.44, F.S.; encouraging schools to provide certain instruction; amending s. 1007.25, F.S.; requiring postsecondary students to demonstrate civic literacy; requiring the chairs of the State Board of Education and the Board of Governors to jointly appoint a faculty committee to develop a civic literacy course, or revise an existing general education core course, and establish the course competencies; amending ss. 943.22 and 1001.64, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 683.1455, Florida Statutes, is created to read:

683.1455 American Founders' Month.—

(1) The month of September of each year is designated as "American Founders' Month."



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576-04123-17

(2) The Governor may annually issue a proclamation designating the month of September as "American Founders' Month" and urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize and observe this occasion through appropriate programs, meetings, services, or celebrations in which state, county, and local governmental officials are invited to participate.

Section 2. Present paragraphs (c) through (g) of subsection (5) of section 1000.03, Florida Statutes, are redesignated as paragraphs (d) through (h), respectively, and a new paragraph (c) is added to that subsection, to read:

1000.03 Function, mission, and goals of the Florida K-20 education system.—

(5) The priorities of Florida's K-20 education system include:

(c) Civic literacy.—Students are prepared to become civically engaged and knowledgeable adults who make positive contributions to their communities.

Section 3. Present subsections (4) through (11) of section 1001.215, Florida Statutes, are redesignated as subsections (5) through (12), respectively, and a new subsection (4) is added to that section, to read:

1001.215 Just Read, Florida! Office.—There is created in the Department of Education the Just Read, Florida! Office. The office shall be fully accountable to the Commissioner of Education and shall:

(4) Develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional



613868

576-04123-17

57 materials to increase students' core knowledge and literacy
58 skills, including student attainment of the Next Generation
59 Sunshine State Standards for social studies, science, and the
60 arts.

61 Section 4. Subsection (3) is added to section 1003.44,
62 Florida Statutes, to read:

1003.44 Patriotic programs; rules.—

64 (3) All public schools in the state are encouraged to
65 coordinate, at all grade levels, instruction related to our
66 nation's Founding Fathers with "American Founders' Month"
67 pursuant to s. 683.1455.

68 Section 5. Present subsections (4) through (11) of section
69 1007.25, Florida Statutes, are redesignated as subsections (5)
70 through (12), respectively, and a new subsection (4) is added to
71 that section, to read:

72 1007.25 General education courses; common prerequisites;
73 other degree requirements.—

74 (4) Beginning with students initially entering a Florida
75 College System institution or state university in 2018-2019 and
76 thereafter, each student must demonstrate competency in civic
77 literacy. A student must have the option to demonstrate
78 competency through successful completion of a civic literacy
79 course or by achieving a passing score on an assessment. The
80 State Board of Education must adopt in rule and the Board of
81 Governors must adopt in regulation at least one existing
82 assessment that measures competencies consistent with the
83 required course competencies outlined in paragraph (b). The
84 chair of the State Board of Education and the chair of the Board
85 of Governors, or their respective designees, shall jointly



613868

576-04123-17

86 appoint a faculty committee to:

87 (a) Develop a new course in civic literacy or revise an
88 existing general education core course in American History or
89 American Government to include civic literacy; and

90 (b) Establish course competencies and identify outcomes
91 that include, at a minimum, an understanding of the basic
92 principles of American democracy and how they are applied in our
93 republican form of government, an understanding of the United
94 States Constitution, knowledge of the founding documents and how
95 they have shaped the nature and functions of our institutions of
96 self-governance, and an understanding of landmark Supreme Court
97 cases and their impact on law and society.

98 Section 6. Paragraph (c) of subsection (1) of section
99 943.22, Florida Statutes, is amended to read:

100 943.22 Salary incentive program for full-time officers.—

101 (1) For the purpose of this section, the term:

102 (c) "Community college degree or equivalent" means
103 graduation from an accredited community college or having been
104 granted a degree pursuant to s. 1007.25(11) ~~s. 1007.25(10)~~ or
105 successful completion of 60 semester hours or 90 quarter hours
106 and eligibility to receive an associate degree from an
107 accredited college, university, or community college.

108 Section 7. Subsection (7) and paragraph (d) of subsection
109 (8) of section 1001.64, Florida Statutes, are amended to read:

110 1001.64 Florida College System institution boards of
111 trustees; powers and duties.—

112 (7) Each board of trustees has responsibility for: ensuring
113 that students have access to general education courses as
114 identified in rule; requiring no more than 60 semester hours of



613868

576-04123-17

degree program coursework, including 36 semester hours of
general education coursework, for an associate in arts degree;
notifying students that earned hours in excess of 60 semester
hours may not be accepted by state universities; notifying
students of unique program prerequisites; and ensuring that
degree program coursework beyond general education coursework is
consistent with degree program prerequisite requirements adopted
pursuant to s. 1007.25(6) ~~s. 1007.25(5)~~.

(8) Each board of trustees has authority for policies
related to students, enrollment of students, student records,
student activities, financial assistance, and other student
services.

(d) Boards of trustees shall identify their general
education curricula pursuant to s. 1007.25(7) ~~s. 1007.25(6)~~.

Section 8. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 1710

INTRODUCER: Senators Stargel and Grimsley

SUBJECT: Education

DATE: April 24, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bouck	Graf	ED	Favorable
2.	Sikes	Elwell	AED	Recommend: Fav/CS
3.	Sikes	Hansen	AP	Pre-meeting
4.			RC	

I. Summary:

SB 1710 designates the month of September as “American Founders’ Month” and authorizes the Governor to issue a proclamation urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize, observe, and celebrate the month. Specifically, the bill:

- Encourages all public schools to observe “American Founders’ Month” with appropriate instruction and activities.
- Establishes civic literacy as a priority of Florida’s K-20 education system.
- Requires the Just Read, Florida! Office to develop and provide access to sequenced, content-rich programming, instructional practices, and resources to increase students’ core knowledge and literacy skills including student attainment of state standards for social studies, science, and the arts.
- Requires students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, to demonstrate civic literacy through successful completion of a civic literacy course or by achieving a passing score on an assessment adopted in rule by the State Board of Education or in regulation by the Board of Governors, as applicable.

The bill has no impact on state funds.

The bill takes effect on July 1, 2017.

II. Present Situation:

Florida has established mechanisms to increase the civic awareness and engagement among students through civic-engagement skills in the curriculum standards for all subjects,¹ and

¹ Section 1003.41(1), F.S.

specifically social studies;² a middle grades civics education course³ and end-of-course assessment;⁴ and the inclusion of such end-of-course assessment in the calculation of school grades.⁵

Priorities of the K-20 Education System

The mission of Florida's K-20 education system is to allow students to increase their proficiency by providing the opportunity to expand their knowledge and skills through rigorous and relevant learning opportunities.⁶ As such, the priorities of Florida's K-20 education system include:⁷

- Demonstration that all students meet the expected academic standards consistently at all levels of their education.
- Learning and completion at all levels, so that all students demonstrate increased learning and completion at all levels, graduate from high school, and are prepared to enter postsecondary education without remediation.
- Alignment of standards and resources for every level of the K-20 education system.
- Improved educational leadership at all levels of K-20 education.
- Alignment of workforce education with skills required by the new global economy.
- Collaboration between parents, students, families, educational institutions, and communities as important to each individual student's success; the goals of Florida's K-20 education system are not guarantees that each individual student will succeed or that each individual school will perform at the level indicated in the goals.
- Comprehensive K-20 career and education planning to better prepare all students at every level for the transition from school to postsecondary education or work.

Patriotic Programs

District school boards are authorized to adopt rules that require patriotic programs in district schools that encourage respect for the United States government, the national anthem, and the flag.⁸ The law also specifies procedures for the playing of the national anthem and recitation of the pledge of allegiance to the flag in public schools and at school-sponsored functions.⁹ The pledge must be recited at the beginning of the day in each public school in the state.¹⁰ Students must be excused from reciting the pledge if his or her parent submits a written request.¹¹

² Section 1003.41(2)(d), F.S.

³ Section 1003.4156(1)(c), F.S. The one-semester civics education course must include the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States. *Id.*

⁴ Section 1008.22(3)(b)1., F.S.

⁵ Section 1008.34(3)(b)1.d., F.S.

⁶ Section 1000.03(4), F.S.

⁷ *Id.* at (5).

⁸ Section 1003.44(1), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Postsecondary Requirements

Civics Instruction

Currently, there is not a state civics requirement for students attending a Florida public postsecondary institution.¹² Students in the Florida College System and State University System are offered opportunities to study civics through courses in their general education core curriculum, as well as in civics courses in specific programs of study.¹³

Florida law requires a student to complete at least one social science course as a part of the general education core degree requirement.¹⁴ The courses available to complete this requirement are in:¹⁵

- American History;
- Anthropology;
- Macroeconomics;
- American Government;
- Psychology; and
- Sociology.

Of the social science courses taken in 2014-15, 45 percent were civics related.¹⁶ Also, 17 percent of all university undergraduates, and 21 percent of all college students enrolled in college-credit courses took at least one civics-related course in 2014-2015.¹⁷

Degree Requirements

The following state-level requirements apply to students seeking an associate in arts or baccalaureate degree from a Florida public postsecondary institution:

- Completion of 36 semester hours of general education coursework in the areas of communication, humanities, mathematics, natural science, and social science.¹⁸
- Beginning with students initially entering a Florida College System institution or state university in 2015-2016 and thereafter, complete at least one identified core course in each subject area as part of the general education course requirements.¹⁹

¹² Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education*, at 8, presentation to the House of Representatives PreK-12 Quality Subcommittee (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

¹³ *Id.* at 10.

¹⁴ Section 1007.25(3), F.S.

¹⁵ Rule 6A-14.0303, F.A.C.

¹⁶ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education*, at 14, presentation to the House of Representatives PreK-12 Quality Subcommittee (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>. Psychology was the most popular social science general education course.

¹⁷ *Id.* at 11. These include American History, Government, and Economics.

¹⁸ Section 1007.25, F.S. See also Rule 6A-10.024(2)(a) and (3)(a), F.A.C., Rule 6A-10.030(1) and (2), F.A.C., and BOG Regulation 6.017(1)(a).

¹⁹ Section 1007.25(3), F.S.

- Beginning with students initially entering a Florida College System institution or state university in 2014-2015 and thereafter, coursework for an associate in arts degree must include demonstration of competency in a foreign language.²⁰
- Completion of six semester hours of English coursework, six semester hours of other coursework in which the student is required to demonstrate college-level writing skills through multiple assignments, and six semester hours of mathematics at the level of college algebra or higher.²¹
- For associate in arts degrees, students initially entering a Florida College System institution in 2013-2014 and thereafter, must indicate a baccalaureate degree program offered by an institution of interest by the time the student earns 30 semester hours.²²
- For an associate in arts degree, completion of no more than 60 semester hours of college credit;²³ for a baccalaureate degree, completion of no more than 120 semester hours of college credit.²⁴

Students in associate in science and associate in applied science degree programs must satisfactorily complete a planned program of instruction comprised of the established credit hour length²⁵ and complete fifteen semester credit hours of general education coursework.²⁶

Just Read, Florida!

In 2001,²⁷ Governor Jeb Bush established Just Read, Florida! as a comprehensive and coordinated reading initiative intended to establish reading as a core value in this state. In 2006,²⁸ the Legislature created within the DOE the Just Read, Florida! Office. Among its duties, the Just Read, Florida! Office must:²⁹

- Create multiple designations of effective reading instruction, with accompanying credentials, which encourage all teachers to integrate reading instruction into their content areas.
- Train K-12 teachers and school principals on effective content-area-specific reading strategies. For secondary teachers, emphasis must be on technical text.
- Provide parents with information and strategies for assisting their children in reading in the content area.
- Provide technical assistance to school districts in the development and implementation of the K-12 comprehensive reading plan.
- Work with the Florida Center for Reading Research to provide information on research-based reading programs and effective reading in the content area strategies.
- Periodically review the Sunshine State Standards for reading at all grade levels.

²⁰ Section 1007.25(7), F.S.

²¹ Rule 6A-10.030, F.A.C. and BOG Regulation 6.017(1)(a)

²² Section 1007.23(3), F.S. and 6A-10.024(4), F.A.C.

²³ Students must achieve a cumulative grade point average of 2.0. Rule 6A-10.024, F.A.C.

²⁴ 1007.25(7) and (8), F.S. See also Rule 6A-14.030(2), F.A.C., Rule 6A-10.024(3)(a), F.A.C., and BOG Regulation 6.017(1)(c). The 120 semester hour limit may be waived with prior approval by the Board of Governors for baccalaureate degree programs offered by state universities and by the State Board of Education for baccalaureate degree programs offered by Florida College System institutions. Section 1007.25(8), F.S.

²⁵ Rule 6A-6.0571, F.A.C.

²⁶ Rule 6A-14.030, F.A.C. and 6A-10.024(6)(b), F.A.C.

²⁷ Executive Order 01-260 (2001)

²⁸ Section 8, ch. 2006-74, L.O.F.

²⁹ Section 1001.215, F.S.

- Periodically review teacher certification examinations, including alternative certification exams, to ascertain whether the examinations measure the skills needed for research-based reading instruction and instructional strategies for teaching reading in the content areas.
- Work with approved teacher preparation programs to integrate research-based reading instructional strategies and reading in the content area instructional strategies.

III. Effect of Proposed Changes:

Section 1 creates s. 683.1455, F.S., to designate the month of September as “American Founders’ Month” and authorize the Governor to issue a proclamation urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize, observe, and celebrate the month. Specifically, this section:

- Encourages all public schools to observe “American Founders’ Month” with appropriate instruction and activities.
- Establishes civic literacy as a priority of Florida’s K-20 education system.
- Requires the Just Read, Florida! Office to develop and provide access to sequenced, content-rich programming, instructional practices, and resources to increase students’ core knowledge and literacy skills including student attainment of state standards for social studies, science, and the arts.
- Requires students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, to demonstrate civic literacy through successful completion of a civic literacy course or by achieving a passing score on an assessment adopted in rule by the State Board of Education or in regulation by the Board of Governors, as applicable.

Priorities of the K-20 Education System (Section 2)

Section 2 amends s. 1000.03, F.S., to extend the scope of Florida’s K-20 education system to establish civic literacy as a priority. Specifically, this section includes as a priority of Florida’s K-20 education system that students “are prepared become civically engaged and knowledgeable adults who make positive contributions to their communities.”

Patriotic Programs (Sections 1 and 4)

As a component of the required instruction relating to patriotic programs, section 4 amends s. 1003.44, F.S., to encourage all public schools in Florida to coordinate, at all grade levels, instruction related to our nation’s Founding Fathers in “American Founders’ Month.” Also, section 1 encourages civic, fraternal, and religious organizations and public and private educational institutions to recognize and observe “American Founders’ Month” through programs, meetings, services, or celebrations in which state, county, and local government officials are invited to participate.

Postsecondary Requirements (Sections 5, 6, and 7)

Section 5 amends s. 1007.25, F.S., to create an additional requirement for students in degree programs at Florida public postsecondary institutions. This section requires that, beginning with students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, each student must demonstrate competency in civic literacy. Demonstration of

competency may be through successful completion of a civic literacy course or by achieving a passing score on an assessment adopted in State Board of Education (SBE) rule or Board of Governors (BOG) regulation. The chairs of the SBE and BOG must jointly appoint a faculty committee to:

- Develop a new course in civic literacy or revise an existing general education core course.
- Establish course competencies and identify outcomes that include, at a minimum:
 - An understanding of the basic principles of American democracy and how they are applied in our republican form of government.
 - An understanding of the United States Constitution.
 - Knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance.
 - An understanding of landmark Supreme Court cases and their impact on law and society.

Sections 6 and 7 amend ss. 943.22 and 1001.64, F.S., respectively, to correct cross references changed as a result of the modifications to s. 1007.25, F.S.

Just Read, Florida! (Section 3)

Section 3 amends s. 1001.215, F.S., to require the Just Read, Florida! Office to develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students' core knowledge and literacy skills, including student attainment of the Next General Sunshine State Standards for social studies, science, and the arts.

The bill takes effect on July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may have a fiscal impact on students if the students are required to pay for the cost of the civics literacy assessment. In addition, if civic literacy competence is a graduation requirement, a student unable to pass the required assessment or course may have to pay additional tuition and fees to retake a course or may delay graduation.

C. Government Sector Impact:

Florida College System institutions and state universities may have costs associated with developing or purchasing a civic literacy assessment.

VI. Technical Deficiencies:

Lines 75-77 of the bill require each student initially enrolling in a Florida College System institution or state university in 2018-2019, and thereafter, to demonstrate competency in civic literacy. However, it is unclear if civic literacy competency is a graduation requirement. It is also unclear if the requirement applies to all students or only degree-seeking students.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 943.22, 1000.03, 1001.215, 1001.64, 1003.44, and 1007.25.

This bill creates section 683.1455 of Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Stargel

22-01277A-17

20171710__

A bill to be entitled

An act relating to education; creating s. 683.1455, F.S.; designating the month of September as "American Founders' Month"; amending s. 1000.03, F.S.; revising the priorities of Florida's K-20 education system; amending s. 1001.215, F.S.; revising the duties of the Just Read, Florida! Office to include developing and providing access to certain resources for elementary schools; amending s. 1003.44, F.S.; encouraging schools to provide certain instruction; amending s. 1007.25, F.S.; requiring postsecondary students to demonstrate civic literacy; requiring the chairs of the State Board of Education and the Board of Governors to jointly appoint a faculty committee to develop a civic literacy course, or revise an existing general education core course, and establish the course competencies; amending ss. 943.22 and 1001.64, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 683.1455, Florida Statutes, is created to read:

683.1455 American Founders' Month.—

(1) The month of September of each year is designated as "American Founders' Month."

(2) The Governor may annually issue a proclamation designating the month of September as "American Founders' Month"

22-01277A-17

20171710__

and urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize and observe this occasion through appropriate programs, meetings, services, or celebrations in which state, county, and local governmental officials are invited to participate.

Section 2. Present paragraphs (c) through (g) of subsection (5) of section 1000.03, Florida Statutes, are redesignated as paragraphs (d) through (h), respectively, and a new paragraph (c) is added to that subsection, to read:

1000.03 Function, mission, and goals of the Florida K-20 education system.—

(5) The priorities of Florida's K-20 education system include:

(c) Civic literacy.—Students are prepared to become civically engaged and knowledgeable adults who make positive contributions to their communities.

Section 3. Present subsections (4) through (11) of section 1001.215, Florida Statutes, are redesignated as subsections (5) through (12), respectively, and a new subsection (4) is added to that section, to read:

1001.215 Just Read, Florida! Office.—There is created in the Department of Education the Just Read, Florida! Office. The office shall be fully accountable to the Commissioner of Education and shall:

(4) Develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students' core knowledge and literacy skills, including student attainment of the Next Generation

22-01277A-17

20171710__

Sunshine State Standards for social studies, science, and the arts.

Section 4. Subsection (3) is added to section 1003.44, Florida Statutes, to read:

1003.44 Patriotic programs; rules.—

(3) All public schools in the state are encouraged to coordinate, at all grade levels, instruction related to our nation's Founding Fathers with "American Founders' Month" pursuant to s. 683.1455.

Section 5. Present subsections (4) through (11) of section 1007.25, Florida Statutes, are redesignated as subsections (5) through (12), respectively, and a new subsection (4) is added to that section, to read:

1007.25 General education courses; common prerequisites; other degree requirements.—

(4) Beginning with students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, each student must demonstrate competency in civic literacy. A student must have the option to demonstrate competency through successful completion of a civic literacy course or by achieving a passing score on an assessment adopted in rule by the State Board of Education or in regulation by the Board of Governors, as applicable. The chair of the State Board of Education and the chair of the Board of Governors, or their respective designees, shall jointly appoint a faculty committee to:

(a) Develop a new course in civic literacy or revise an existing general education core course; and

(b) Establish course competencies and identify outcomes

22-01277A-17

20171710__

that include, at a minimum, an understanding of the basic principles of American democracy and how they are applied in our republican form of government, an understanding of the United States Constitution, knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance, and an understanding of landmark Supreme Court cases and their impact on law and society.

Section 6. Paragraph (c) of subsection (1) of section 943.22, Florida Statutes, is amended to read:

943.22 Salary incentive program for full-time officers.—

(1) For the purpose of this section, the term:

(c) "Community college degree or equivalent" means graduation from an accredited community college or having been granted a degree pursuant to s. 1007.25(11) ~~s. 1007.25(10)~~ or successful completion of 60 semester hours or 90 quarter hours and eligibility to receive an associate degree from an accredited college, university, or community college.

Section 7. Subsection (7) and paragraph (d) of subsection (8) of section 1001.64, Florida Statutes, are amended to read:

1001.64 Florida College System institution boards of trustees; powers and duties.—

(7) Each board of trustees has responsibility for: ensuring that students have access to general education courses as identified in rule; requiring no more than 60 semester hours of degree program coursework, including 36 semester hours of general education coursework, for an associate in arts degree; notifying students that earned hours in excess of 60 semester hours may not be accepted by state universities; notifying students of unique program prerequisites; and ensuring that

22-01277A-17

20171710__

117 degree program coursework beyond general education coursework is
118 consistent with degree program prerequisite requirements adopted
119 pursuant to s. 1007.25(6) ~~s. 1007.25(5)~~.

120 (8) Each board of trustees has authority for policies
121 related to students, enrollment of students, student records,
122 student activities, financial assistance, and other student
123 services.

124 (d) Boards of trustees shall identify their general
125 education curricula pursuant to s. 1007.25(7) ~~s. 1007.25(6)~~.

126 Section 8. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 1760 (805502)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); and Senators Grimsley and Campbell

SUBJECT: Health Care Facility Regulation

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stovall	Stovall	HP	Favorable
2. Stovall/Forbes	Williams	AHS	Recommend: Fav/CS
3. Forbes	Hansen	AP	Pre-meeting
4. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1760 includes regulatory reductions, revisions to minimize or eliminate conflicts with federal or state requirements, and new provisions to recognize changing needs, and deletes obsolete provisions in the regulation of health care facilities by the Agency for Health Care Administration (AHCA or agency). The bill:

- Abolishes the licensure of clinical laboratories and health care risk managers. The requirement for clinical laboratories to be certified under federal requirements remains in effect. Health care risk managers remain an integral part of a comprehensive risk management program, but will no longer require licensure.
- Removes mobile surgical facilities from health care facility regulation.
- Authorizes hospitals to use alternate-site testing for certain laboratory services.
- Requires the agency to adopt rules for minimum licensure requirements relating to pediatric cardiac catheterization, pediatric open-heart surgery, organ transplantation, neonatal intensive care services, psychiatric services, and comprehensive medical rehabilitation.
- Requires each home health agency to identify the home health services it provides and indicate whether each service is considered skilled care. Additional regulatory requirements will apply to home health agencies providing skilled services.
- Establishes a voluntary process to apply for a certificate of exemption from licensure for a person providing home health services that are exempt from licensure.

- Enhances and clarifies the provisions affecting unlicensed activity for nurse registries and assisted living facilities.
- Removes prohibitions on a nurse registry providing remuneration to certain individuals who may provide referrals.
- Deletes certain provisions within specific facility licensing chapters to eliminate inconsistencies with the general facility licensing chapter, or to reduce regulatory burdens.
- Authorizes a licensee to request the alignment of the expiration date for multiple licenses held by the licensee.
- Repeals the subscriber assistance program, the statewide managed care ombudsman committee, and the district managed care ombudsman committees.
- Assigns the exclusive jurisdiction of a designated facility owned or operated by a public health trust to the county creating it, excluding it from a municipality's jurisdiction.
- Requires the agency to adopt rules addressing the care and treatment of patients residing in distinct part nursing units of hospitals.
- Imposes a 2-year expiration date on a voluntary certificate of exemption issued to a person or entity providing health care services that is not a clinic under Part X of ch. 400, F.S.
- Strengthens background screening requirements for persons with a controlling interest and certain contracted workers with access to client funds, property, or living areas.
- Strengthens the disqualifying conditions for a Medicaid provider.
- Adds numerous revisions to the regulation of ALFs, including but not limited to: resident contract revisions, reading the medication label aloud when assisting a resident with the self-administration of medication, clarifying certain provisions within the resident bill of rights, conducting monitoring visits, and eliminating a conflict in the timeframe for providing resident records.
- Exempts from the regulation of clinical laboratory personnel under part II (renumbered in this bill) persons performing testing within a physician's office for patients in a group practice if the laboratory is under common ownership with a hospital or ASC.
- Requires the Department of Corrections to develop a procedure to certify certain law enforcement personnel to perform urine screen drug tests.

The AHCA estimates a total annual revenue reduction of \$1,448,266 due to the repeal of licensure for clinical laboratories and health care risk managers.

The act is effective July 1, 2017.

II. Present Situation:

The AHCA is created in s. 20.42, F.S. It is the chief health policy and planning entity for the state and is responsible for, among other things, health facility licensure, inspection, and regulatory enforcement. It licenses or certifies and regulates 40 different types of health care providers, including hospitals, nursing homes, assisted living facilities, and home health agencies. In total, the agency licenses, certifies, regulates or provides exemptions for more than 42,000 providers.¹

¹ See the Agency for Health Care Administration, Division of Health Quality Assurance web page available at: <http://ahca.myflorida.com/MCHQ/index.shtml> (last visited March 22, 2017).

Generally applicable provisions of health care provider licensure are addressed in the Health Care Licensing Procedures Act in part II of ch. 408, F.S. Additional chapters or sections in the Florida Statutes provide specific licensure or regulatory requirements pertaining to health care providers in this state.²

Due to the many diverse issues within the bill, pertinent background is provided within the effect of proposed changes for the reader's convenience.

III. Effect of Proposed Changes:

Clinical Laboratories and Clinical Laboratory Personnel

Clinical Laboratories

The federal Centers for Medicare & Medicaid Services (CMS) regulates all laboratory testing (except research) performed on humans in the U.S. through the Clinical Laboratory Improvement Amendments (CLIA).³ Facilities that provide clinical laboratory services are required to be certified by the CMS CLIA laboratory certification program which operates in conjunction with the Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention (CDC). Certain laboratories may qualify as a waived testing laboratory and receive a CLIA Certificate of Waiver.⁴

Clinical laboratories in the state performing non-waived tests must also obtain a state license from the AHCA and comply with part I of ch. 483, F.S., relating to clinical laboratories, and the general licensing provisions in part II of ch. 408, F.S. This requirement also applies to a clinical laboratory operated by one or more practitioners such as physicians, chiropractors, podiatrists, optometrists, or dentists, exclusively in connection with the diagnosis and treatment of their own patients.⁵

As of July 1, 2016, the agency licenses 3,862 clinical laboratories and collects an average of \$1,129,000 per year in recurring licensure fees and an average of \$254,400 per year in recurring biennial assessments required by s. 408.033, F.S. The federal CLIA program certifies another 17,877 Florida-based laboratories that only perform waived testing which is exempt from state licensure requirements.⁶

Section 92 of the bill repeals part I of ch. 483, F.S., relating to the licensure and regulation of clinical laboratories by the agency. Part I includes ss. 483.011 - 483.26, F.S. Laboratories will continue to be certified by, or receive a certificate of waiver from the CMS under the CLIA.

² See s. 408.802, F.S., for the health care provider types and applicable licensure statutes.

³ <https://www.cms.gov/Regulations-and-Guidance/Legislation/CLIA/index.html?redirect=/CLIA> (last visited Mar. 17, 2017).

⁴ Waived testing laboratories: employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible, pose no reasonable risk of harm to the patient if the test is performed incorrectly, use tests that are cleared by the FDA for home use, and conduct testing that is considered non-technical requiring little or no difficulty. See Agency for Health Care Administration, Waived Laboratories:

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Laboratory_Licensure/waived_apps.shtml (last visited Mar. 17, 2017).

⁵ Section 483.035(1), F.S.

⁶ Agency for Health Care Administration, *Senate Bill 1760 Analysis* (March 10, 2017), p. 5, (on file with the Senate Committee on Health Policy).

Included within the repeal is a requirement that lab results must be reported directly to the licensed practitioner or other authorized person who requested it, and the authorization for a laboratory to disclose the results without a patient's consent to other health care practitioners and providers involved in the care or treatment of the patient as specified in s. 456.057(7)(a), F.S.

Conforming amendments:

- Section 1 amends s. 20.43, F.S., to renumber the Board of Clinical Laboratory Personnel under the Division of Medical Quality Assurance in the Department of Health from part III to part II to conform to the repeal of part I of ch. 483, F.S.
- Sections 6, 8, 18, and 24 amend ss. 381.0031, 381.004, 384.31, and 395.009, F.S., respectively, to remove references to a laboratory licensed under ch. 483, F.S., and to instead refer to a laboratory certified by the CMS under the CLIA and the federal rules adopted thereunder.
- Section 7 amends s. 381.0034, F.S., to conform a cross-reference to the repeal of part I of ch. 483, F.S.
- Section 15 amends s. 383.313, F.S., to conform the performance of laboratory services by a birth center to the repeal of clinical laboratory licensure and expressly require all laboratory services performed by a birth center to obtain and maintain a CLIA Laboratory Certification or CLIA Certification of Waiver.
- Section 41 amends s. 395.7015, F.S., to remove licensed clinical laboratories from the annual assessment imposed on health care entities.
- Section 42 amends s. 400.0625, F.S., to require all clinical laboratory tests performed for a nursing home to be performed by a laboratory certified by the CMS under the CLIA, with certain exceptions. The bill also deletes the requirement that clinical laboratory tests performed prior to admission in the nursing home by qualified labs shall be accepted in lieu of additional laboratory tests that might be required as a part of the routine examinations for admission.
- Section 55 amends s. 400.9905, F.S., relating to health care clinics, to remove cross-reference to licensure under part I of ch. 483.
- Section 57 amends s. 408.033, F.S., relating to local and state health planning, to remove the assessment imposed on clinical laboratories as a funding source of local health councils.
- Section 60 amends s. 408.07, F.S., relating to the Florida Center for Health Information and Transparency and related reporting by licensed health care facilities to remove the definition of clinical laboratories.
- Section 63 amends s. 408.802, F.S., to delete clinical laboratories from regulation under part II of ch. 408, F.S.
- Section 69 amends s. 408.820, F.S., to delete specified exemptions applicable to the regulation of clinical laboratories.
- Section 70 amends s. 409.905, F.S., to delete reference to licensure under ch. 483 and add the requirement for certification by the CMS under CLIA for laboratory services that are paid for by Medicaid.
- Sections 73, 90, 91 and 123 amend ss. 409.975, 458.345, s. 459.021, and 1011.52, F.S., respectively, to conform a cross-reference to the renumbered definitions in s. 408.07, F.S., in section 60.
- Sections 87 and 88 amend ss. 456.001, and 456.057 F.S., to conform cross-references that have changed due to the repeal of part I of ch. 483, F.S.

- Sections 96, 97, and 98 amend ss. 483.813, 483.823, and 491.003, F.S., to remove references to provisions in part I of ch. 483, F.S.
- Section 99 amends s. 627.351, F.S., relating to medical malpractice risk apportionment to remove clinical laboratories from the definition of health care provider.
- Section 121 amends s. 945.36, F.S., to affirmatively authorize certain law enforcement personnel to administer a urine screen drug test on inmates and releases, rather than exempting the law enforcement personnel from part I of ch. 483, F.S. The Department of Corrections is required to develop a procedure to certify these law enforcement personnel to perform urine screen drug tests.

Clinical Laboratory Personnel

Individuals who perform testing in licensed clinical laboratories are required to be licensed by the Department of Health, Board of Clinical Laboratory Personnel (board). Licenses issued by the board are specific to the role of the individuals and the specialties in which they perform that role. Certain exemptions from licensure by the board apply, such as for physicians, chiropractors, podiatrists, or dentists, and certain researchers.⁷ The board is composed of seven members and has authority to adopt rules to implement the provisions of part III of ch. 483, F.S., relating to clinical laboratory personnel.

Section 94 amends s. 483.801, F.S., to exempt from licensure persons engaged in testing performed by laboratories that are wholly owned and operated by one or more practitioners licensed under Florida law as allopathic or osteopathic physicians, chiropractors, podiatrists, optometrists, or dentists and practice in the same group practice, and in which no clinical laboratory work is performed for patients referred by a health care provider who is not a member of the same group. Another exemption is provided for persons performing laboratory testing within a group practice for the patients referred by a provider who is a member of the same practice if the laboratory is under common ownership, directly or indirectly, with an ambulatory surgical center (ASC) or hospital.

Section 95 amends s. 483.803, F.S., to revise definitions to conform to the repeal of part I of ch. 483, F.S. The definitions of “clinical laboratory” and “clinical laboratory examination” currently found in part I of ch. 483, F.S., are moved to the definitions relating to clinical laboratory personnel.

Hospital and Health Care Facility Licensure

The regulation of, and all references to, mobile surgical facilities are removed from health care facility regulation. Part I of ch. 395, F.S., was amended to include mobile surgical facility as a license type in 1998. A definition of a mobile surgical facility restricts its use to the Department of Corrections (DOC) or a private correctional facility to provide surgical procedures to inmates. No license has ever been issued for a mobile surgical facility and none are anticipated. The DOC operates one hospital which does not offer surgical services directly to its inmates; rather it contracts with a licensed ambulatory surgical center (ASC). A separate license type is not needed in order to meet the surgical needs of the inmate population.⁸

⁷ Sections 483.801 and 483.813, F.S.

⁸ *Supra* note 6, p. 3.

Conforming amendments:

- Sections 19, 20, 72, 73, and 102 amend ss. 385.211, 394.4787, 409.9116, 409.975, and 627.64194, F.S., respectively, to conform a cross-reference to the renumbered definitions in s. 395.002, F.S.
- Sections 21, 22, 23, 26, 27, 119, and 120 amend ss. 395.001, 395.002, 395.003, 395.0161, 395.0163, 766.118, and 766.202, F.S., respectively, to remove reference to a mobile surgical facility in the section.
- Section 41 amends s. 395.7015, F.S., to remove mobile surgical facilities from the annual assessment imposed on health care entities.
- Section 58 amends s. 408.036, F.S., to remove mobile surgical facilities as a project subject to an exemption for certificates of need (CON).
- Section 63 amends s. 408.802, F.S., to delete mobile surgical facilities from regulation under part II of ch. 408, F.S.
- Section 69 amends s. 408.820, F.S., to delete specified exemptions applicable to the regulation of mobile surgical facilities.

Section 25 creates s. 395.0091, F.S., relating to alternate-site testing to enable hospitals to use a laboratory testing site in which the testing is done under the administrative control of a hospital but performed out of the physical or administrative confines of the central laboratory. The bill directs the agency, in consultation with the Board of Clinical Laboratory Personnel, to adopt by rule the criteria for alternate-site testing to be performed under the supervision of a clinical laboratory director. The rule must address, at a minimum, a hospital internal needs assessment, a protocol of implementation, criteria to be used in selecting the method of testing, minimum training and education requirements of professionals in the laboratory, an internal and external quality control protocol, tracking mechanisms between the alternate-site and the central laboratory, and recordkeeping. An alternate-site testing location must be registered when the hospital renews its license.

Sections 28 and 34. Section 34 repeals s. 395.10974, F.S., which establishes the licensure requirements for health care risk managers. Section 28 amends s. 395.0197, F.S., to require an internal risk manager of a health care facility to demonstrate to the hiring facility or its governing board, competence, by education or experience in the same areas⁹ as required to be demonstrated to the agency for licensure as a health care risk manager. This section also removes references to licensure under s. 395.10974, F.S., as a risk manager.

Conforming amendments:

- Section 31 repeals s. 395.10971, F.S., which provides Legislative findings and intent with respect to the health care risk manager program.
- Section 32 repeals s. 395.10972, F.S., which establishes a health care risk manager advisory council within the agency. There are no current council members and have been no council

⁹ These areas include: applicable standards of health care risk management; applicable federal, state, and local health and safety laws and rules; general risk management administration; patient care; medical care; personal and social care; accident prevention; departmental organization and management; community interrelationships; and medical terminology. See s. 395.10974(1), F.S.

meetings for at least 10 years. In addition, the statute contains no defined role or responsibilities for the council.¹⁰

- Section 33 amends s. 395.10973, F.S., to remove the agency's rulemaking authority for licensure standards, determination of qualification, and licensure of a health care risk manager.
- Section 35 repeals s. 395.10975, F.S., relating to grounds for denial, suspension, or revocation of a health care risk manager's license.
- Section 63 amends s. 408.802, F.S., to delete health care risk managers from regulation under part II of ch. 408, F.S.
- Section 69 amends s. 408.820, F.S., to delete specified exemptions applicable to the regulation of health care risk managers.
- Sections 89 and 112 amend ss. 458.307 and 641.55, F.S., to remove reference to the licensure requirement for a health care risk manager.

Section 29 repeals s. 395.1046, F.S., relating to the complaint investigation procedures for alleged violation of the emergency access to care provisions found in s. 395.1041, F.S. The state's emergency access to care provisions are similar to the federal Emergency Medical Treatment and Labor Act, commonly known as EMTALA.¹¹ The agency enforces the emergency access to care requirements through the uniform complaint investigation procedure used for all license types and these complaints are given top priority. Section 395.1046, F.S., duplicates the complaint investigation procedures found in the general licensing provisions in part II of ch. 408, F.S. Also, s. 395.1046, F.S., provides confidentiality protections and a public records exemption for the results in the investigation report, that the agency proposes is an unnecessary level of confidentiality.¹²

Section 30 amends s. 395.1055, F.S., to requires the agency to adopt rules to ensure that all hospitals providing pediatric cardiac catheterization, pediatric open-heart surgery, organ transplantation, neonatal intensive care services, psychiatric services, or comprehensive medical rehabilitation meet the minimum licensure requirements adopted by the agency. The licensure requirement shall include quality of care, nurse staffing, physician staffing, physical plant, equipment, emergency transportation, and data reporting standards. The agency indicates that adopted rules for all these procedures may take some time due to the interaction of various stakeholders.¹³ The CON process includes standards; however, these conditions are not required to be met for continued licensure.¹⁴

¹⁰ *Supra* n. 6, p. 4.

¹¹ EMTALA, also known as the patient antidumping statute, was passed in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272. Section 1867 of the Act sets forth requirements for medical screening examinations for individuals who come to the emergency department of a hospital and request examination or treatment for an emergency medical condition, regardless of ability to pay. The statute further provides that, if a hospital finds that such an individual has an emergency medical condition, it is obligated to provide that individual with either necessary stabilizing treatment or an appropriate transfer to another medical facility. See the CMS.gov website at: <https://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/index.html> (last visited March 18, 2017).

¹² *Supra* n. 6, p. 3.

¹³ *Supra* note 6, p. 4.

¹⁴ *Id.*

The bill also requires the agency to adopt rules relating to the care and treatment of patients residing in distinct part nursing units of hospitals. The agency is directed to consider the types of patients treated, typical patient acuity levels, and the average length of stay in such units in rulemaking, and to require level 2 background screening for personnel of distinct part nursing units. Hospital based skilled nursing units are state licensed under the hospital but federally certified as skilled nursing unit beds. These units are inspected under the same federal criteria as a nursing home. Currently, there are nine hospitals with skilled nursing units. These units range in size from 23-113 beds.¹⁵ Hospital licensure regulations do not specifically address these units.

Section 36 amends s. 395.602, F.S., relating to rural hospitals, to remove the definitions of “emergency care hospital,” “essential access community hospital,” “inactive rural hospital bed,” and “rural primary care hospital.” These definitions relate to obsolete rural hospital programs that are no longer available or applicable to rural hospitals. Hospitals are authorized to make changes to their bed inventory at will so there is no longer a need to maintain an inventory of inactive rural hospital beds for CON purposes.¹⁶

Conforming amendments:

- Section 9 amends s. 381.0405, F.S., to remove reference to the Essential Access Community Hospital Program from the responsibilities of the Office of Rural Health within the DOH.
- Section 37 amends s. 395.603, F.S., to remove provisions relating to the deactivation of general hospital beds in order to seek licensure for programs that are now obsolete.
- Section 38 repeals s. 395.604, F.S., relating to licensing hospitals for these obsolete programs.
- Section 39 repeals s. 395.605, F.S., relating to licensing emergency care hospitals, which is now an obsolete program.
- Section 122 amends s. 1009.65, F.S., to conform a cross-reference to the renumbered definitions in s. 395.602, F.S.

Section 40 amends s. 395.701, F.S., relating to hospital assessments on inpatient and outpatient services. Current law excludes hospitals operated by the agency or the DOC. The bill expands the exclusion to any hospital operated by a state agency, to specifically exclude hospitals operated by the Department of Children and Families.¹⁷ Section 61 amends s. 408.20, F.S., relating to assessments in the Health Care Trust Fund, to conform the exemption for hospitals operated by a state agency.

Home Health Agencies

Section 43 amends s. 400.464, F.S., to require any license issued after July 1, 2017, to specify the home health services that the organization is authorized to perform and indicate whether each service is considered skilled care. In addition, providing or advertising services that require licensure and which are not specified on the face of the license issued after July 1, 2017, constitutes prohibited unlicensed activity.

¹⁵ Email from AHCA staff dated March 27, 2017, on file with the Senate Health Policy Committee.

¹⁶ *Supra* note 6, p. 4.

¹⁷ *Id.*

The bill authorizes a voluntary process for applying for a certificate of exemption from licensure for a person providing home health services who is exempt from licensure as a home health agency. The agency may charge a fee of \$100 or the actual cost of processing this certificate.

Conforming amendment:

Section 48 amends s. 400.497, F.S., relating to agency rulemaking to include applications for certificates of exemption from licensure.

Section 44 amends s. 400.471, F.S., to require application for a change of ownership or for the addition of skilled services. Applicants for license renewal no longer need to provide volume data. Under the bill, evidence of contingency funding refers to the general licensing provisions in part II of ch. 408, F.S., to eliminate an inconsistency between the two chapters. Under current law, a home health agency that is not Medicare or Medicaid certified and does not provide skilled care is exempt from providing proof of accreditation. This bill provides the exemption only if the home health agency does not provide skilled care. The bill further clarifies that the accrediting organization must be recognized by the agency, the survey must demonstrate compliance with Florida laws pertaining to home health agencies, and accreditation must be continuously maintained.

Section 44 and 45 amend ss. 400.471 and 400.474, F.S., respectively, to clarify that a licensed home health agency must provide the services specified in the written agreement with the patient except in emergency situations that are beyond the provider's control that make it impossible to provide the services.

Section 46 amends s. 400.476, F.S., to require a home health agency that provides skilled nursing care to have a director of nursing. Current law exempts a home health agency from this requirement if it is Medicare or Medicaid certified or provides only physical, occupational, or speech therapy. This exemption is repealed.

Section 47 amends s. 400.484, F.S., renaming deficiencies as violations with respect to providing care by home health agencies and tying these violations to the general licensing provisions for health care facilities in part II of ch. 408, F.S.

Nurse Registries

Section 49 amends s. 400.506, F.S., to remove a grace period of 10-working days after notification from the agency that licensure is required, for an unlicensed nurse registry to cease operating to avoid committing a misdemeanor of the second degree. Under the bill, the unlicensed nurse registry must cease operations immediately. The agency is authorized to impose a fine of \$1,000 per day in accordance with s. 408.812, F.S., in the general licensing provisions pertaining to unlicensed activity, rather than the \$500 fine specified in this statute specifically relating to nurse registries.

In addition, this section of the bill removes the prohibitions on a nurse registry providing remuneration to a case manager, discharge planner, facility based staff member, third party vendor, physician, member of the physician's office staff, or an immediate family member of a physician for referrals. Current law already exempts nurse registries from this prohibition if they

do not bill Medicare or Medicaid or share a controlling interest with any entity that bills Medicare or Medicaid.

Assisted Living Facilities (ALF)

Section 74 amends s. 429.02, F.S., to make technical revisions to the definition of personal services.

Section 75 amends s. 429.04, F.S., relating to exemptions from licensure to clarify and expand the exemptions to include a licensed hospital, nursing home, inpatient hospice, home for special services,¹⁸ intermediate care facility, or transitional living facility. Additionally, the bill assigns the burden of providing documentation substantiating an exemption to the person or entity asserting an exemption in response to an agency investigation of unlicensed activity.

A current exemption from licensure includes any person who provides housing, meals, or one or more personal services on a 24-hour basis in the person's own home to not more than two adults who do not receive optional state supplementation. The bill specifies that in addition to owning or renting the home, the person who provides these services must have established the home as the person's permanent residence. If the person holds a homestead exemption at a different address, a presumption exists that the person has not established permanent residence as required by this section. Furthermore, the bill provides that the exemption does not apply to a person or entity who previously held a license issued by the agency and such license was revoked or licensure renewal was denied by final order, or when the license was voluntarily relinquished during agency enforcement proceedings.

Section 76 amends s. 429.08, F.S., relating to unlicensed facilities to clarify and create a felony of the third degree penalty for renting or otherwise maintaining a building or property that operates or maintains an unlicensed ALF. Similarly, this section now provides that any person who owns, operates, or maintains an unlicensed ALF after receiving notice from the agency that licensure is required and to cease such operation commits a felony of the third degree. Current law provides a six-month window after a statutory or rule change takes place if the change placed the person in the position of violating this provision before the violation occurs. The bill repeals this six-month grace period.

Section 78 amends s. 429.176, F.S., to prohibit an ALF from operating for more than 120 consecutive days without an administrator who has completed the core educational requirements.

Section 79 amends s. 429.24, F.S., relating to contracts with residents, to exempt the addition of a new service or accommodation to a resident's contract for which the resident was not previously charged, from the 30-day written notice of a rate increase.

Section 80 amends s. 429.256, F.S., to require as a part of the facility's assistance with the self-administration of medication that the name, medication, and dosage indicated on the label of the medication be read aloud in the presence of the resident.

¹⁸ Homes for special services is defined in s. 400.801, F.S., as a site licensed by the agency prior to January 1, 2006, where specialized health care services are provided, including personal and custodial care, but not continuous nursing services.

Section 81 amends s. 429.28, F.S., relating to the resident bill of rights, to clarify that the resident has the right to “assistance with obtaining” access to adequate and appropriate health care, which is defined in the bill to include the management of medications, assistance in making appointments, providing or arranging for transportation, and the performance of health care services in accordance with provisions set forth in s. 429.255, F.S.

Provisions in s. 429.28, F.S., requiring the agency to conduct monitoring visits and complaint investigations are deleted from this section. Authority to conduct these monitoring visits and inspections are moved to s. 429.34, F.S. Section 77 amends s. 429.19, F.S., relating to imposition of administrative fines, to delete a reference to monitoring visits conducted under s. 429.28, F.S., to conform to the changes made to this section of law.

Section 82 amends s. 429.294, F.S., to remove the requirement that resident records be provided within 10 days in accordance with s. 400.145, F.S. This eliminates a conflict because s. 400.145, F.S., requires records to be provided to a current resident within 14 working days of the request and to a former resident within 30 days of a request.

Section 83 amends s. 429.34, F.S., to remove the requirement that the agency conduct an inspection of each licensed ALF at least every 24 months. Section 408.811(1)(b), F.S., requires relicensure inspections biennially. The provision authorizing the agency to conduct at least one monitoring visit of each facility cited in the previous year for a class I or class II violation, or more than three uncorrected class III violations in any calendar year in which a survey is not conducted, is moved into this section from s. 429.28, F.S.

Section 84 amends s. 429.52, F.S., to require a new facility administrator to complete all required training, education, and competency tests within 90 days of the date of employment. Current law requires completion of those requirements within a reasonable time after being employed, as determined by the department.

Multiphasic Health Testing Centers

Section 93 amends s. 483.294, F.S., to remove the requirement that a multiphasic health testing center be inspected at least annually. Inspections are to be done in accordance with s. 408.811, F.S., which provides that inspections for relicensure shall occur biennially; however, an inspection may be performed at any time as needed. The general licensing provisions in part II of ch. 408, F.S., allow for accreditation inspections to be accepted in lieu of a full licensure inspection.

Health Care Clinic Certificate of Exemption

Section 56 amends s. 400.9935, F.S., to establish a 2-year expiration for a certificate of exemption from licensure issued to a person or entity providing health care services that does not meet the definition of a clinic for which licensure is required. Obtaining a certificate of exemption is voluntary.

A clinic is defined in s. 400.9905, F.S., for purposes of licensure and regulation under Part X of ch. 400, F.S., as an entity where health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider. However, 14 exemptions to this definition exist. Examples include: entities and various ownership configurations of entities otherwise licensed or registered by the state and providing only health care services within the scope of services authorized under their licenses; entities that are wholly owned by one or more licensed health care practitioners and their immediate family members; clinical facilities affiliated with an accredited medical school; certain publicly traded corporations; and other entities meeting certain sales, revenue, or staffing criteria.¹⁹

Amendments referencing General Licensing Provisions and Technical Amendments

Hospices

Section 50 amends s. 400.606, F.S., to remove the required submission of certain financial information at licensure renewal. This requirement conflicts with submission requirements in the general licensure requirements in part II of ch. 408, F.S.

Home Medical Equipment Providers

Section 51 is a technical amendment to s. 400.925, F.S., to move wheelchairs and related seating and positioning devices to a separate paragraph within the definition of home medical equipment.

Section 52 amends s. 400.931, F.S., to require a licensed home medical equipment provider to notify the agency of a change in the general manager within the timeframes established in part II of ch. 408, F.S., which is 21 days, rather than the 45-day timeframe provided in this section of law.

Section 53 is a technical amendment to s. 400.933, F.S., correcting the name of the state agency that issues medical oxygen retail establishment permits. It is now the Department of Business and Professional Regulation.

Health Care Service Pools

Section 54 amends s. 400.980, F.S., to require changes of information contained on the original registration application to be submitted to the agency within the timeframes established in part II of ch. 408, F.S., rather than 14 days prior to the change as required in this section of law.

General Licensing Provisions

Section 64 amends s. 408.803, F.S., to define the term “relative.”

Section 65 amends s. 408.806, F.S., relating to the license application process, to authorize a licensee that holds a license for multiple providers licensed by the agency to request alignment of

¹⁹ See s. 400.9905(4)(a)-(n), F.S. However, notwithstanding these exemptions, most entities that receive reimbursement under the Florida Motor Vehicle No-Fault Law are deemed clinics and must be licensed and subject to regulation under this part.

all license expiration dates. In order to accomplish this, the agency is authorized to issue a license for an abbreviated licensure period with a prorated licensure fee.

Section 66 amends s. 408.809, F.S., relating to background screening requirements, to impose background screening requirements on any person who is a controlling interest, regardless of whether the agency has reason to believe the person has been convicted of certain offenses, and on persons contracting with a licensee for 20 or more hours per week who will have access to client funds, personal property, or living areas.

Section 67 amends s. 408.810, F.S., to exempt an applicant for a change of ownership from submitting proof of financial ability to operate if the provider has been licensed for at least five years and the change is the result of a corporate reorganization under which the controlling interest is unchanged or solely due to the death of a controlling interest, and the surviving controlling interests continue to hold at least 51 percent of the ownership.

The agency is authorized to adopt rules to address the circumstances under which a controlling interest, an administrator, an employee, a contractor, or a representative thereof who is not a relative of the patient or client may act as a legal representative, agent, health care surrogate, power of attorney, or guardian of a patient or client. According to the agency, licensure regulations are currently inconsistent in this area. Due to the vulnerability of persons receiving health or custodial care, allowing the paid caregiver to control finances or health care decisions of the patient can result in exploitation or abuse. In some cases, the facility has a surety bond, but this is not required for all provider types.²⁰

The bill also amends s. 408.810(12), F.S., to prohibit ownership by a persons who has a disqualifying offense pursuant to s. 408.809, F.S. Section 408.809, F.S., requires level 2 background screening on certain persons and if the results trigger the disqualifying offenses listed in s. 435.04, F.S., and the person does not meet an exemption from disqualification, then the person may not own a facility. This subsection also prohibits ownership by someone that has had a license revoked for false representations; intentional or negligent acts affecting a client; demonstrating a pattern of deficient performance; or being excluded, suspended, or terminated from participation in any state's Medicaid program or Medicare.

Section 408.810(13), F.S., is added to recognize that publicly traded corporations on national exchanges may be full or partial owners of health care facilities. It allows the corporation to own a facility by exempting shareholders from the requirement for background screening if the shareholder's only relationship to the corporation is as a shareholder.

Section 68 amends s. 408.812, F.S., relating to unlicensed activity to pronounce that unlicensed activity constitutes abuse and neglect, as defined in s. 415.102, F.S.²¹ The bill removes the requirement that a person or entity must apply for a license after receiving notification from the

²⁰ *Supra* note 6, pp. 6-7.

²¹ In summary, s. 415.102, F.S., defines "abuse" as any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health; and that abuse includes acts and omissions. "Neglect" is defined as the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult. Refer to s. 415.102(16), F.S., for additional acts that constitute neglect.

agency that the person or entity is engaging in unlicensed activity. If a controlling interest or licensee has more than one provider and fails to license all providers that require licensure, the agency may impose a fine, regardless of correction, as one of the authorized sanctions.

Subscriber Assistance Program

Section 62 of the bill repeals s. 408.7056, F.S., relating to the subscriber assistance program.

The subscriber assistance panel (SAP) was created in 1985 to assist members of managed care entities whose grievances or appeals were not satisfactorily resolved by the managed care entity upon exhaustion of the managed care entity's internal grievance and appeal process. Under the federal Patient Protection and Affordable Care Act (PPACA),²² managed care entities were given an option to either comply with the state's external review requirement or opt-out and participate in the federal external review program. The majority of health plans in Florida elected to use the federal program and the SAP program experienced a significant decrease in the number of cases being reviewed by the panel.²³

The SAP is currently available to members of managed care entities with coverage by: Statewide Medicaid Managed Care, Healthy Kids, Prepaid Health Clinics, or grandfathered policies²⁴ that have not elected to have all of their health insurance policies subject to an external review process by independent review organization(s). Medicaid recipients in managed care can file for an external review through a Medicaid Fair Hearing and members with grandfathered commercial policies may appeal through independent review organizations.²⁵

Repeal of the SAP eliminates this program as an external appeal option for members in Healthy Kids and Prepaid Health Clinics, although according to the agency, no Prepaid Health Clinic members have used the SAP. At this time, these members do not have another avenue in which to file an external appeal.²⁶

Conforming amendments:

- Sections 3, 4, 5, 109, and 111 amend ss. 220.1845, 376.30781, 376.86, 641.51, and 641.515, F.S., respectively, to strike a cross-reference to s. 408.7056, F.S., to conform those provisions to repeal of the subscriber assistance program.

²² Pub. Law No. 111-148 (Mar. 23, 2010) amended by Pub. Law. No. 111-152 (Mar. 30, 2010).

²³ According to the agency, between FY 2011-2012 and FY 2012-2013, when the majority of plans opted to use the federal external review program, the number of cases received by the SAP dropped from 415 to 213. The number of cases heard by the SAP dropped from 74 to 17. There has been an uptick in both number of cases received by the subscriber assistance program and the number of cases heard by the panel for FY 2014-2015 and FY 2015-2016, with the latest full year of data showing 350 cases received and 53 cases heard. The predominant outcome of the cases in FY 2015-2016 was a determination of non-jurisdiction (#221), followed by submission of an incomplete application (#31) and found in favor of the subscriber (#27). See the chart prepared by the agency for activity since FY 2009-2010 at *supra* note 4, p. 7.

²⁴ A grandfathered health plan is a plan that existed on March 23, 2010, the date that the PPACA was enacted, and that at least one person had been continuously covered for 1 year. Plans or policies may lose their "grandfathered" status if they make certain significant changes that reduce benefits or increase costs to consumers. See Healthcare.gov, *Grandfathered Health Plans*, <https://www.healthcare.gov/glossary/grandfathered-health-plan/> (last visited Mar. 23, 2017).

²⁵ *Supra* note 6, p. 7.

²⁶ *Id.*

- Sections 100, 103, and 83 amend ss. 627.602, 627.6513, and 641.312, F.S., respectively, to delete an exemption for a health insurance policy, group health insurance policy, and health maintenance organization (HMO) contract that is subject to the subscriber assistance program.
- Section 105 amends s. 641.185, F.S., to remove a principle concerning regulatory oversight by various state entities relating to an HMO's expedited review of unresolved grievances pursuant to the subscriber assistance program.
- Section 108 amends s. 641.3154, F.S., to remove reference to an action after a recommendation is made by the SAP.
- Section 110 amends s. 641.511, F.S., relating to HMOs, to remove notice requirements to subscribers regarding the subscriber assistance program and authorizations for a subscriber to submit a grievance to the subscriber assistance program. The bill maintains the requirement that an HMO have a grievance procedure available to its subscribers for the purpose of addressing complaints and grievance and broad requirements concerning notice to subscribers, but deletes detailed procedures an HMO must follow concerning the HMO's internal grievance procedure.

Managed Care Ombudsman Committees

The Statewide Managed Care Ombudsman Committee (statewide committee) and the district managed care ombudsman committees (district committees) were established in 1996.²⁷ The statewide committee is created within the agency as a consumer protection and advocacy organization on behalf of managed care subscribers. The statewide committee has administrative authority over the district committees and consists of the chairpersons of the district committees.

A district committee is created in s. 641.65, F.S., in each district of the agency that has staff assigned for the regulation of managed care programs. Each district committee must have no fewer than nine members or more than 16 members, including at least four physicians, one licensed under chs. 458, 459, 460, and 461; one psychologist; one registered nurse; one clinical social worker; one attorney; and one consumer.²⁸

According to the agency, due to the very stringent committee composition requirements, the majority of districts could not form district committees. The first committee was established in 1999 and only three other districts were able to meet committee requirements. The last activity on record was in 2010 and there are currently no active committees.²⁹

Sections 113 and 114 repeal ss. 641.60, and 641.65 F.S., respectively, which authorize the Statewide Managed Care Ombudsman Council and the district managed care ombudsman committees.

Conforming changes:

²⁷ Chapter 96-391, L.O.F.

²⁸ Section 641.65(2), F.S.

²⁹ *Supra* note 6, p. 8.

- Sections 115, 116, 117, and 118 repeal ss. 641.67, 641.68, 641.70, and 641.75, F.S., respectively, to remove all references to the statewide Managed Care Ombudsman Council and the district managed care ombudsman committees.

Designated Facilities/Public Health Trust

Chapter 73-102, Laws of Florida, authorized the governing body of each county to create a public health trust in and for the county. The purpose of a public health trust is to exercise supervisory control over the operation, maintenance, and governance of designated health care facilities. A designated facility is any county-owned or county-operated facility used in connection with the delivery of health care.³⁰

A public health trust's board of trustees, appointed by the governing body of the county, is responsible for the operation, governance, and management of a publicly funded health care facility designated by the county's governing body.³¹

Specifically, the board of trustees is empowered to:³²

- Lease – either as lessee or lessor – or rent for any number of years and upon any terms and conditions, real property, except that the board shall not lease or rent, as lessor, any real property except in accordance with the requirements of s. 125.35 [F. S. 1973];
- Sue and be sued;
- Have a seal;
- Adopt bylaws, rules, and regulations for the board's responsibilities;
- Execute contracts;
- Acquire and hold title to real or personal property;
- Appoint and remove a chief executive officer of the trust;
- Establish and collect fees for using or receiving services from the facility;
- Accept gifts of money, services, or real or personal property;
- Appoint, remove, or suspend employees or agents of the board, fix their compensation, and adopt personnel and management policies;
- Provide for employee benefits;
- Cooperate with and contract with any governmental agency or instrumentality, federal, state, municipal, or county;
- Adopt rules and regulations for the management and use of any properties under its control;
- Appoint originally the staff of physicians to practice in a designated facility and approve bylaws and rules to be adopted by the medical staff addressing the method of appointing or removing additional staff members; and
- Employ certified public accountants and legal counsel.

³⁰ Section 154.08, F.S. Designated facilities include: sanatoriums; clinics; ambulatory care centers; primary care centers; hospitals; rehabilitation centers; health training facilities; nursing homes; nurses' residence buildings; infirmaries; outpatient clinics; mental health facilities; residences for the aged; rest homes; health care administration buildings; and parking facilities and areas serving health care facilities.

³¹ See Part II of Chapter 154, Florida Statutes.

³² Section 154.11(1), F.S. However, note that a public health trust may not impose any tax, issue bonds, or require the imposition of a tax or the issuance of any bond by the governing body of the county. Section 154.11(2), F.S.

A Public Health Trust was created in 1973 by the Miami-Dade³³ Board of County Commissioners as an independent governing body for Jackson Memorial Hospital. In 2003, the Board of County Commissioners amended the Miami-Dade County Code to expand the responsibilities of the Public Health Trust countywide to health care facilities within the Jackson Health System. The Trust is composed of volunteer citizens who set policies that assure that the Jackson Health System is responsive to community needs. This “citizen body” provides leadership for joint planning between Jackson Health System, the University of Miami’s Miller School of Medicine, Miami-Dade County, and other private and community organizations.³⁴ Miami-Dade County is the only county to have created a Public Health Trust.³⁵

Section 2 creates s. 154.13, F.S., to assign the exclusive jurisdiction of a designated facility owned or operated by a public health trust to the county creating it, excluding it from a municipality’s jurisdiction. Among other things, this will eliminate duplication and overlap of regulatory oversight such as permitting requirements and reduce regulatory fee impacts.

Obsolete and Miscellaneous Provisions

Section 17 repeals s. 383.335, F.S., to remove a birth center exemption to licensure for certain providers that existed over 30 years ago. Currently no providers meet this exemption.³⁶

Conforming Amendment:

- Sections 10, 11, 12, 13, 14, 16, 55, 101, 104, and 106 amend ss. 383.30, 383.301, 383.302, 383.305, 383.309, 383.33, 400.9905, 627.6406, 627.6574, and 641.31, F.S., respectively, to conform the cross-reference to statutes affecting birth centers.

Section 59 amends s. 408.061, F.S., relating to data collection by the agency from health care facilities, to conform cross-references and to exclude hospitals operated by state agencies from the requirement to submit certain financial reports.

Section 71 amends s. 409.907, F.S., relating to Medicaid provider agreements, to remove certain disqualifying conditions for eligibility as a Medicaid provider. These provisions are moved into s. 435.04, F.S., relating to level 2 screening standards, specifically applicable to screening to participate in the Medicaid program. A person being screened for participation in the Medicaid program may not have been arrested for and is awaiting final disposition of; has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to; and has not been adjudicated delinquent and the record sealed or expunged for those offenses moved from s. 409.907, F.S., or additional violations relating to:

- Criminal use of a public record or information in a public record;
- Unlawful compensation or reward for official behavior;
- Corruption by threat against a public servant;
- Official misconduct;
- Bid tampering;

³³ In 1973, the county was named Dade County.

³⁴ See Jackson Health System, *Public Health Trust*, <http://www.jacksonhealth.org/trust.asp>, (Last visited April 14, 2017).

³⁵ Email from AHCA staff, dated April 14, 2017, on file with the Senate Health Policy Committee.

³⁶ *Supra* note 6, p. 10.

- Falsifying records; or
- Misuse of confidential information.

Section 85 also amends s. 435.04, F.S., to add that level 2 screening under this section must ensure that no person subject to this section has been arrested for and is awaiting final disposition of any offense that constitutes domestic violence.

Section 86 amends s. 435.12, F.S. relating to the Care Provider Background Screening Clearinghouse, to authorize the extension of the screening renewal period for a person who passed a level 2 screening under s. 435.04, F.S., after December 31, 2012 until January 1, 2020, or until the Department of Law Enforcement (FDLE) begins participation in the national retained print arrest notification program before that date. The FDLE is authorized to retain fingerprints for this same period.

The effective date of the bill is July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Repealing the licensure requirement for health care risk managers will save each risk manager the cost of the licensure fee, which is \$104.54 for initial applicants and \$52.78 for renewal applicants.³⁷

Repealing clinical laboratory licensure, will save each clinical laboratory that was required to be licensed and is accredited \$100 biennially. If not accredited the fee is

³⁷ See the Application checklist available at:

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/risk_manager.shtml (last visited Mar. 24, 2017).

between \$400 - \$3,919 biennially, depending upon the annual volume of non-waived tests performed.³⁸

Representatives of assisted living facilities have indicated that requiring staff to read aloud information on the label of medication each time medication is provided to residents as a part of assisting in the self-administration of medication, will be time-consuming and could negatively impact the cost of care and operations if additional staff is needed to comply with this new requirement. No specific fiscal impact has been reported, but would likely vary significantly depending upon the number of residents in a facility and the number and frequency of medications each resident receives.

C. Government Sector Impact:

This bill is expected to reduce revenues by \$1,383,400 per year related to risk manager application fees, approximately \$64,866 per year for laboratory licensure application and associated biennial assessment fees. The total reduction of revenue is approximately \$1,448,266 annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.43, 220.1845, 376.30781, 376.86, 381.0031, 381.0034, 381.004, 381.0405, 381.30, 383.301, 383.302, 383.305, 383.309, 383.313, 384.31, 383.33, 385.211, 394.4787, 395.001, 395.002, 395.003, 395.009, 395.0161, 395.0163, 395.0197, 395.1055, 395.10973, 395.602, 395.603, 395.701, 395.7015, 400.0625, 400.464, 400.471, 400.474, 400.476, 400.484, 400.497, 400.506, 400.606, 400.925, 400.931, 400.933, 400.9935, 400.980, 400.9905, 408.033, 408.036, 408.061, 408.07, 408.20, 408.802, 408.803, 408.806, 408.809, 408.810, 408.812, 408.820, 409.905, 409.907, 409.9116, 409.975, 429.02, 429.04, 429.08, 429.176, 429.19, 429.24, 429.256, 429.28, 429.294, 429.34, 429.52, 435.04, 435.12, 456.001, 456.057, 458.307, 458.345, 459.021, 483.294, 483.801, 483.803, 483.813, 483.823, 491.003, 627.351, 627.602, 627.6406, 627.64194, 627.6513, 627.6574, 641.185, 641.31, 641.312, 641.3154, 641.51, 641.511, 641.515, 641.55, 766.118, 766.202, 945.36, 1009.65, and 1011.52.

This bill creates the following sections of the Florida Statutes: 154.13 and 395.0091.

³⁸ See AHCA Clinical laboratory fees, available at:

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Laboratory_Licensure/fees.shtml (last visited Mar. 24, 2017).

This bill repeals the following sections of the Florida Statutes: 383.335, 395.1046, 395.10971, 395.10972, 395.10974, 395.10975, 395.604, 395.605, 408.7056, 483.011, 483.021, 483.031, 483.035, 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172, 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, 483.26, 641.60, 641.65, 641.67, 641.68, 641.70, and 641.75.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on April 18, 2017:

The substantive differences in the CS:

- Reinstates the Board of Clinical Laboratory Personnel under the organizational structure of the DOH Division of Medical Quality Assurance in s. 20.43.
- Provide that a designated facility owned or operated by a public health trust is under the exclusive jurisdiction of the county creating it and is not within, or subject to, the jurisdiction of the municipality.
- Expressly require all laboratory services performed by a birthing center to comply with and maintain CLIA certification requirements.
- Require the agency to adopt rules for the care and treatment of patients residing in distinct part nursing units of hospitals.
- Conform the requirement that laboratory services for nursing homes must be performed by a laboratory certified under the CLIA certification requirements.
- Revise the date by which licenses issued to a home health agency must specify whether services provided are skilled care to July 1, 2017, rather than June 30, 2017.
- Remove the new provisions relating to the status of personnel referred by a nurse registry.
- Move a new provision requiring a licensee to ensure that any person with an ownership interest in a licensee does not meet certain conditions to address a technical deficiency with the placement of the provision in the bill as filed.
- Impose background screening requirements on any person who is a controlling interest, regardless of whether the agency has reason to believe the person has been convicted of certain offenses, and on persons contracting with a licensee for 20 or more hours per week who will have access to client funds, personal property, or living areas.
- Allow a corporation that is traded on a national stock exchange to own a facility by exempting persons who are merely shareholders from the background screening requirements.
- Move disqualifying conditions of a Medicaid provider to another provision of law.
- Add numerous revisions to the regulation of ALFs, including but not limited to: resident contract revisions, reading the medication label aloud when assisting a resident with the self-administration of medication, clarifying certain provisions within the resident bill of rights, conducting monitoring visits, and eliminating a conflict in the timeframe for providing resident records.
- Revise and enhance level 2 background screening for participation in the Medicaid program.

- Extend the background screening renewal period for certain persons screened after December 31, 2012, until January 1, 2020, or until the FDLE participates in the national retained print arrest notification program.
- Exempt from the regulation of clinical laboratory personnel under part II (renumbered in this bill) for persons performing testing within a physician's office for patients in a group practice if the laboratory is under common ownership with a hospital or ASC.
- Reinstate the requirement for the HMO to maintain records of all grievances and report annually to the agency the total number of grievances handled, a categorization of the cases underlying the grievance, and the final disposition of the grievances.
- Repeal the district managed care ombudsman committees.
- Require the Department of Corrections to develop a procedure to certify certain law enforcement personnel to perform urine screen drug tests.
- Remove the January 1, 2018, effective date for certain provisions; all provisions in the bill are effective July 1, 2017.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Between lines 2418 and 2419
insert:

Section 88. Subsection (3) of section 456.054, Florida Statutes, is renumbered as subsection (4), and a new subsection (3) is added to that section, to read:

456.054 Kickbacks prohibited.—

(3) (a) It is unlawful for any person or any entity to pay or receive, directly or indirectly, a commission, bonus,



400850

kickback, or rebate from, or to engage in any form of a split-fee arrangement with, a dialysis facility, health care practitioner, surgeon, person, or entity for referring patients to a clinical laboratory as defined in s. 483.803.

(b) It is unlawful for any clinical laboratory to:

1. Provide personnel to perform any functions or duties in a health care practitioner's office or dialysis facility for any purpose, including for the collection or handling of specimens, directly or indirectly through an employee, contractor, independent staffing company, lease agreement, or otherwise, unless the laboratory and the practitioner's office, or dialysis facility, are wholly owned and operated by the same entity.

2. Lease space within any part of a health care practitioner's office or dialysis facility for any purpose, including for the purpose of establishing a collection station where materials or specimens are collected or drawn from patients.

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

And the title is amended as follows:

Delete line 189

and insert:

Enforcement; amending s. 456.054, F.S.; providing that it is unlawful for a person or entity to pay or receive a commission, bonus, kickback, or rebate from, or engage in certain split-fee agreements with, specified persons and entities for referring patients to a clinical laboratory; prohibiting a clinical laboratory from performing functions or duties in



400850

40 health care practitioner's offices and in certain
41 facilities under certain circumstances; prohibiting a
42 clinical laboratory from leasing space within any part
43 of a health care practitioner's office or a certain
44 facility; repealing part I of ch. 483, F.S.,



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2450 - 2473

and insert:

Section 90. Paragraph (i) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):



905900

(i) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. ~~The provisions of~~ This paragraph may shall not be construed to prevent a physician from receiving one or more of the following forms of payment or compensation:

1. A fee for professional consultation services; or

2. If the physician is an employee or independent contractor of the entity compensating the physician, a share of:

a. Profits, collections, or revenues based on the professional services rendered or directly supervised by the physician and provided on behalf of the entity compensating the physician; or

b. Overall profit or revenue of the entity compensating the physician provided that such share is not determined in a manner that directly takes into account the volume or value of services ordered by, but not performed or directly supervised by, the physician.

Section 91. Subsection (1) of section 458.345, Florida Statutes, is amended to read:

458.345 Registration of resident physicians, interns, and fellows; list of hospital employees; prescribing of medicinal drugs; penalty.—

(1) Any person desiring to practice as a resident physician, assistant resident physician, house physician,



905900

intern, or fellow in fellowship training which leads to subspecialty board certification in this state, or any person desiring to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training in a teaching hospital in this state as defined in s. 408.07(44) ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold a valid, active license issued under this chapter shall apply to the department to be registered and shall remit a fee not to exceed \$300 as set by the board. The department shall register any applicant the board certifies has met the following requirements:

(a) Is at least 21 years of age.

(b) Has not committed any act or offense within or without the state which would constitute the basis for refusal to certify an application for licensure pursuant to s. 458.331.

(c) Is a graduate of a medical school or college as specified in s. 458.311(1)(f).

Section 92. Paragraph (j) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, person, partnership, firm, corporation, or other business entity, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing



905900

homes, clinical laboratories, ambulatory surgical centers, or
pharmacies. ~~The provisions of~~ This paragraph ~~may shall~~ not be
construed to prevent an osteopathic physician from receiving one
or more of the following forms of payment or compensation:

1. A fee for professional consultation services; or

2. If the osteopathic physician is an employee or
independent contractor of the entity compensating the
osteopathic physician, a share of:

a. Profits, collections, or revenues based on the
professional services rendered or directly supervised by the
osteopathic physician and provided on behalf of the entity
compensating the osteopathic physician; or

b. Overall profit or revenue of the entity compensating the
osteopathic physician provided that such share is not determined
in a manner that directly takes into account the volume or value
of services ordered by, but not performed or directly supervised
by, the osteopathic physician.

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

And the title is amended as follows:

Delete line 189

and insert:

Enforcement; amending ss. 458.331 and 459.015, F.S.;

revising an exemption relating to grounds for

disciplinary action by the Boards of Medicine and

Osteopathic Medicine and the Department of Health to

authorize specified forms of payment to a physician or

osteopathic physician, respectively; repealing part I

of ch. 483, F.S.,



805502

576-04082-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to health care facility regulation; creating s. 154.13, F.S.; providing that a designated facility owned or operated by a public health trust and located within the boundaries of a municipality is under the exclusive jurisdiction of the county creating the public health trust; amending ss. 381.0031, 381.004, 384.31, 395.009, 400.0625, and 409.905, F.S.; eliminating state licensure requirements for clinical laboratories; requiring clinical laboratories to be federally certified; amending s. 383.313, F.S.; revising requirements that a birth center perform certain laboratory tests; repealing s. 383.335, F.S., relating to partial exemptions from licensure requirements for certain facilities that provide obstetrical and gynecological surgical services; amending s. 395.002, F.S.; revising and deleting definitions; creating s. 395.0091, F.S.; authorizing the Agency for Health Care Administration to adopt rules establishing criteria for alternate-site laboratory testing; defining the term "alternate-site testing"; amending ss. 395.0161 and 395.0163, F.S.; deleting licensure and inspection requirements for mobile surgical facilities to conform to changes made by the act; amending s. 408.809, F.S.; making additional persons subject to background screening requirements; amending s. 409.907, F.S.; removing the



805502

576-04082-17

agency's authority to consider certain factors in determining whether to enter into, and in maintaining, a Medicaid provider agreement; amending s. 435.04 F.S.; providing that security background investigations must ensure that a person has not been arrested for, and is not awaiting final disposition of, certain offenses; specifying offenses under federal law or any state law that security background investigations must screen for; requiring that security background investigations screen for violations of federal or state law, rule, or regulation governing any state Medicaid program, the Medicare program, or any other publicly funded federal or state health care or health insurance program; amending s. 395.0197, F.S.; requiring the manager of a hospital or ambulatory surgical center internal risk management program to demonstrate competence in certain administrative and health care service areas; conforming provisions to changes made by the act; repealing s. 395.1046, F.S., relating to hospital complaint investigation procedures; amending s. 395.1055, F.S.; requiring hospitals that provide specified services to meet agency licensure requirements; conforming a provision to changes made by the act; repealing ss. 395.10971 and 395.10972, F.S., relating to the purpose and establishment of the Health Care Risk Manager Advisory Council; amending s. 395.10973, F.S.; deleting duties of the agency relating to health care risk managers, to conform to



805502

576-04082-17

57 changes made by the act; repealing s. 395.10974, F.S.,
58 relating to licensure of health care risk managers;
59 repealing s. 395.10975, F.S., relating to grounds for
60 denial, suspension, or revocation of a health care
61 risk manager's license; amending s. 395.602, F.S.;
62 deleting definitions; amending s. 395.603, F.S.;
63 deleting provisions relating to deactivation of
64 general hospital beds by certain rural and emergency
65 care hospitals; repealing s. 395.604, F.S., relating
66 to other rural hospital programs; repealing s.
67 395.605, F.S., relating to emergency care hospitals;
68 amending s. 395.701, F.S.; revising the definition of
69 the term "hospital" to exclude hospitals operated by
70 state agencies; amending s. 400.464, F.S.; requiring
71 that a license issued on or after a specified date to
72 a home health agency specify the services the
73 organization is authorized to perform and whether the
74 services constitute skilled are; providing that the
75 provision or advertising of certain services
76 constitutes unlicensed activity; providing that
77 certain persons, entities or organizations providing
78 home health services may voluntarily apply for a
79 certificate of exemption from licensure; requiring
80 that certain information be provided to the agency;
81 specifying the duration of the certificate of
82 exemption; providing that the certificate is
83 nontransferable; authorizing the agency to charge a
84 fee for the certificate, not to exceed a certain
85 amount; amending s. 400.471, F.S.; revising home



805502

576-04082-17

86 health agency licensure requirements; providing
87 requirements for proof of accreditation for home
88 health agencies applying for change of ownership or
89 the addition of skilled care services; amending s.
90 400.474, F.S.; revising conditions for the imposition
91 of a fine against a home health agency; amending s.
92 400.476, F.S.; requiring a home health agency
93 providing skilled nursing care to have a director of
94 nursing; amending s. 400.484, F.S.; providing for the
95 imposition of administrative fines on home health
96 agencies for specified classes of violations; amending
97 s. 400.497, F.S.; requiring the agency to adopt,
98 publish, and enforce rules establishing standards for
99 certificates of exemption; amending s. 400.506, F.S.;
100 revising provisions imposing a fine on nurse
101 registries that fail to cease operation after
102 notification by the agency; revising circumstances
103 under which the agency may take certain action or must
104 impose a fine; amending s. 400.606, F.S.; revising
105 content requirements of the plan accompanying an
106 initial or change-of-ownership application for a
107 hospice; amending s. 400.925, F.S.; revising the
108 definition of the term "home medical equipment";
109 amending s. 400.931, F.S.; providing a timeframe for a
110 home medical equipment provider to notify the agency
111 of certain personnel changes; amending s. 400.933,
112 F.S.; authorizing the agency to accept certain medical
113 oxygen permits issued by the Department of Business
114 and Professional Regulation in lieu of agency



805502

576-04082-17

115 licensure inspections; amending s. 400.980, F.S.;
116 revising the timeframe within which a health care
117 services pool registrant must provide the agency with
118 certain changes of information; amending s. 400.9935,
119 F.S.; providing that a voluntary certificate of
120 exemption is not valid for more than 2 years; amending
121 s. 408.061, F.S.; excluding hospitals operated by
122 state agencies from certain financial reporting
123 requirements; conforming a cross-reference; amending
124 s. 408.07, F.S.; deleting the term "clinical
125 laboratory"; amending s. 408.20, F.S.; exempting
126 hospitals operated by state agencies from assessments
127 against the Health Care Trust Fund to fund certain
128 agency activities; repealing s. 408.7056, F.S.,
129 relating to the Subscriber Assistance Program;
130 amending s. 408.803, F.S.; defining the term
131 "relative" for the Health Care Licensing Procedures
132 Act; amending s. 408.806, F.S.; authorizing licensees
133 who hold licenses for multiple providers to request
134 that the agency align related license expiration
135 dates; authorizing the agency to issue licenses for an
136 abbreviated licensure period and to charge prorated
137 fees; amending s. 408.810, F.S.; exempting an
138 applicant for change of ownership from furnishing
139 proof of financial ability to operate under certain
140 conditions; authorizing the agency to adopt rules
141 governing circumstances under which a controlling
142 interest may act in certain legal capacities on behalf
143 of a patient or client; amending s. 408.812, F.S.;



805502

576-04082-17

144 providing that certain unlicensed activity by a
145 provider constitutes abuse and neglect; authorizing
146 the agency to impose a fine under certain
147 circumstances; amending s. 408.820, F.S.; deleting
148 certain exemptions from part II of ch. 408, F.S. for
149 specified providers; amending s. 429.02, F.S.;
150 revising definitions; amending s. 429.04, F.S.;
151 providing additional exemptions from licensure as an
152 assisted living facility; requiring a person or entity
153 asserting the exemption to provide documentation that
154 substantiates the claim; amending s. 429.08, F.S.;
155 providing criminal penalties and fines for a person
156 who rents or otherwise maintains a building or
157 property that operates or maintains an unlicensed
158 assisted living facility; amending s. 429.176, F.S.;
159 prohibiting an assisted living facility from operating
160 without an administrator who has completed certain
161 educational requirements for more than a specified
162 period of time; amending s. 429.24, F.S.; providing
163 that 30-day written notice of rate increase is not
164 required in certain situations; amending s. 429.256,
165 F.S.; requiring that certain information on a
166 medication label be read aloud in the presence of a
167 resident; amending s. 429.28, F.S.; revising the
168 resident bill of rights to include assistance with
169 obtaining access to adequate and appropriate health
170 care; defining the term "adequate and appropriate
171 health care"; deleting a requirement that the agency
172 conduct at least one monitoring visit in certain



805502

576-04082-17

173 circumstances; removing the authority of the agency to
174 perform followup inspections in certain circumstances;
175 removing the authority of the agency to conduct
176 complaint investigations; amending s. 429.294, F.S.;
177 deleting a specified timeframe within which a facility
178 must provide certain records; amending s. 429.34,
179 F.S.; authorizing the agency to perform inspections
180 and investigations to ensure compliance; authorizing
181 the agency to perform monitoring visits in certain
182 circumstances; amending s. 429.52, F.S.; requiring a
183 facility administrator to complete required training
184 and education within a certain timeframe; amending s.
185 435.12, F.S.; extending the screening renewal period
186 for individuals screened after a certain date in
187 certain circumstances; extending the period for which
188 fingerprints must be retained by the Department of Law
189 Enforcement; repealing part I of ch. 483, F.S.,
190 relating to clinical laboratories; amending s.
191 483.294, F.S.; revising agency inspection schedules
192 for multiphasic health testing centers; amending s.
193 483.801, F.S.; providing an exemption from regulation
194 for persons employed by certain laboratories; amending
195 s. 483.803, F.S.; revising definitions; conforming a
196 cross-reference; amending s. 641.511, F.S.; revising
197 health maintenance organization subscriber grievance
198 reporting requirements; repealing s. 641.60, F.S.,
199 relating to the Statewide Managed Care Ombudsman
200 Committee; repealing s. 641.65, F.S., relating to
201 district managed care ombudsman committees; repealing



805502

576-04082-17

202 s. 641.67, F.S., relating to a district managed care
203 ombudsman committee, exemption from public records
204 requirements, and exceptions; repealing s. 641.68,
205 F.S., relating to a district managed care ombudsman
206 committee and exemption from public meeting
207 requirements; repealing s. 641.70, F.S., relating to
208 agency duties relating to the Statewide Managed Care
209 Ombudsman Committee and the district managed care
210 ombudsman committees; repealing s. 641.75, F.S.,
211 relating to immunity from liability and limitation on
212 testimony; amending s. 945.36, F.S.; authorizing law
213 enforcement personnel to conduct drug tests on certain
214 inmates and releasees; amending ss. 20.43, 220.1845,
215 376.30781, 376.86, 381.0034, 381.0405, 383.30,
216 383.301, 383.302, 383.305, 383.309, 383.33, 385.211,
217 394.4787, 395.001, 395.003, 395.7015, 400.9905,
218 408.033, 408.036, 408.802, 409.9116, 409.975, 429.19,
219 456.001, 456.057, 458.307, 458.345, 459.021, 483.813,
220 483.823, 491.003, 627.351, 627.602, 627.6406,
221 627.64194, 627.6513, 627.6574, 641.185, 641.31,
222 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,
223 766.202, 1009.65, and 1011.52, F.S.; conforming
224 provisions to changes made by the act; providing an
225 effective date.

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

228
229 Section 1. Paragraph (g) of subsection (3) of section
230 20.43, Florida Statutes, is amended to read:



805502

576-04082-17

231 20.43 Department of Health.—There is created a Department
232 of Health.
233 (3) The following divisions of the Department of Health are
234 established:
235 (g) Division of Medical Quality Assurance, which is
236 responsible for the following boards and professions established
237 within the division:
238 1. The Board of Acupuncture, created under chapter 457.
239 2. The Board of Medicine, created under chapter 458.
240 3. The Board of Osteopathic Medicine, created under chapter
241 459.
242 4. The Board of Chiropractic Medicine, created under
243 chapter 460.
244 5. The Board of Podiatric Medicine, created under chapter
245 461.
246 6. Naturopathy, as provided under chapter 462.
247 7. The Board of Optometry, created under chapter 463.
248 8. The Board of Nursing, created under part I of chapter
249 464.
250 9. Nursing assistants, as provided under part II of chapter
251 464.
252 10. The Board of Pharmacy, created under chapter 465.
253 11. The Board of Dentistry, created under chapter 466.
254 12. Midwifery, as provided under chapter 467.
255 13. The Board of Speech-Language Pathology and Audiology,
256 created under part I of chapter 468.
257 14. The Board of Nursing Home Administrators, created under
258 part II of chapter 468.
259 15. The Board of Occupational Therapy, created under part



805502

576-04082-17

260 III of chapter 468.
261 16. Respiratory therapy, as provided under part V of
262 chapter 468.
263 17. Dietetics and nutrition practice, as provided under
264 part X of chapter 468.
265 18. The Board of Athletic Training, created under part XIII
266 of chapter 468.
267 19. The Board of Orthotists and Prosthetists, created under
268 part XIV of chapter 468.
269 20. Electrolysis, as provided under chapter 478.
270 21. The Board of Massage Therapy, created under chapter
271 480.
272 22. The Board of Clinical Laboratory Personnel, created
273 under part II ~~III~~ of chapter 483.
274 23. Medical physicists, as provided under part IV of
275 chapter 483.
276 24. The Board of Opticianry, created under part I of
277 chapter 484.
278 25. The Board of Hearing Aid Specialists, created under
279 part II of chapter 484.
280 26. The Board of Physical Therapy Practice, created under
281 chapter 486.
282 27. The Board of Psychology, created under chapter 490.
283 28. School psychologists, as provided under chapter 490.
284 29. The Board of Clinical Social Work, Marriage and Family
285 Therapy, and Mental Health Counseling, created under chapter
286 491.
287 30. Emergency medical technicians and paramedics, as
288 provided under part III of chapter 401.



805502

576-04082-17

289 Section 2. Section 154.13, Florida Statutes, is created to
290 read:

291 154.13 Designated facilities; jurisdiction.—Any designated
292 facility owned or operated by a public health trust and located
293 within the boundaries of a municipality is under the exclusive
294 jurisdiction of the county creating the public health trust and
295 is not within the jurisdiction of the municipality.

296 Section 3. Paragraph (k) of subsection (2) of section
297 220.1845, Florida Statutes, is amended to read:

298 220.1845 Contaminated site rehabilitation tax credit.—

299 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

300 (k) In order to encourage the construction and operation of
301 a new health care facility as defined in s. 408.032 or s.
302 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~
303 ~~408.7056~~, on a brownfield site, an applicant for a tax credit
304 may claim an additional 25 percent of the total site
305 rehabilitation costs, not to exceed \$500,000, if the applicant
306 meets the requirements of this paragraph. In order to receive
307 this additional tax credit, the applicant must provide
308 documentation indicating that the construction of the health
309 care facility or health care provider by the applicant on the
310 brownfield site has received a certificate of occupancy or a
311 license or certificate has been issued for the operation of the
312 health care facility or health care provider.

313 Section 4. Paragraph (f) of subsection (3) of section
314 376.30781, Florida Statutes, is amended to read:

315 376.30781 Tax credits for rehabilitation of drycleaning-
316 solvent-contaminated sites and brownfield sites in designated
317 brownfield areas; application process; rulemaking authority;



805502

576-04082-17

318 revocation authority.—

319 (3)

320 (f) In order to encourage the construction and operation of
321 a new health care facility or a health care provider, as defined
322 in s. 408.032 ~~or~~ s. 408.07, ~~or s. 408.7056~~, on a brownfield
323 site, an applicant for a tax credit may claim an additional 25
324 percent of the total site rehabilitation costs, not to exceed
325 \$500,000, if the applicant meets the requirements of this
326 paragraph. In order to receive this additional tax credit, the
327 applicant must provide documentation indicating that the
328 construction of the health care facility or health care provider
329 by the applicant on the brownfield site has received a
330 certificate of occupancy or a license or certificate has been
331 issued for the operation of the health care facility or health
332 care provider.

333 Section 5. Subsection (1) of section 376.86, Florida
334 Statutes, is amended to read:

335 376.86 Brownfield Areas Loan Guarantee Program.—

336 (1) The Brownfield Areas Loan Guarantee Council is created
337 to review and approve or deny, by a majority vote of its
338 membership, the situations and circumstances for participation
339 in partnerships by agreements with local governments, financial
340 institutions, and others associated with the redevelopment of
341 brownfield areas pursuant to the Brownfields Redevelopment Act
342 for a limited state guaranty of up to 5 years of loan guarantees
343 or loan loss reserves issued pursuant to law. The limited state
344 loan guaranty applies only to 50 percent of the primary lenders
345 loans for redevelopment projects in brownfield areas. If the
346 redevelopment project is for affordable housing, as defined in



805502

576-04082-17

s. 420.0004, in a brownfield area, the limited state loan guaranty applies to 75 percent of the primary lender's loan. If the redevelopment project includes the construction and operation of a new health care facility or a health care provider, as defined in s. 408.032 ~~or~~ s. 408.07, ~~ex-s-~~ ~~408.7056~~, on a brownfield site and the applicant has obtained documentation in accordance with s. 376.30781 indicating that the construction of the health care facility or health care provider by the applicant on the brownfield site has received a certificate of occupancy or a license or certificate has been issued for the operation of the health care facility or health care provider, the limited state loan guaranty applies to 75 percent of the primary lender's loan. A limited state guaranty of private loans or a loan loss reserve is authorized for lenders licensed to operate in the state upon a determination by the council that such an arrangement would be in the public interest and the likelihood of the success of the loan is great.

Section 6. Subsection (2) of section 381.0031, Florida Statutes, is amended to read:

381.0031 Epidemiological research; report of diseases of public health significance to department.-

(2) Any practitioner licensed in this state to practice medicine, osteopathic medicine, chiropractic medicine, naturopathy, or veterinary medicine; any hospital licensed under part I of chapter 395; or any laboratory appropriately certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder which licensed under chapter 483 that diagnoses or suspects the existence of a disease of



805502

576-04082-17

public health significance shall immediately report the fact to the Department of Health.

Section 7. Subsection (3) of section 381.0034, Florida Statutes, is amended to read:

381.0034 Requirement for instruction on HIV and AIDS.-

(3) The department shall require, as a condition of granting a license under chapter 467 or part ~~II~~ ~~III~~ of chapter 483, that an applicant making initial application for licensure complete an educational course acceptable to the department on human immunodeficiency virus and acquired immune deficiency syndrome. Upon submission of an affidavit showing good cause, an applicant who has not taken a course at the time of licensure shall be allowed 6 months to complete this requirement.

Section 8. Paragraph (c) of subsection (4) of section 381.004, Florida Statutes, is amended to read:

381.004 HIV testing.-

(4) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS; REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM REGISTRATION.-No county health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immune deficiency syndrome or human immunodeficiency virus status without first registering with the Department of Health, reregistering each year, complying with all other applicable provisions of state law, and meeting the following requirements:

(c) The program shall have all laboratory procedures performed in a laboratory appropriately certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted



805502

576-04082-17

405 ~~thereunder licensed under the provisions of chapter 483.~~

406 Section 9. Paragraph (f) of subsection (4) of section
407 381.0405, Florida Statutes, is amended to read:

408 381.0405 Office of Rural Health.—

409 (4) COORDINATION.—The office shall:

410 (f) Assume responsibility for state coordination of the
411 Rural Hospital Transition Grant Program, ~~the Essential Access~~
412 ~~Community Hospital Program~~, and other federal rural health care
413 programs.

414 Section 10. Section 383.30, Florida Statutes, is amended to
415 read:

416 383.30 Birth Center Licensure Act; short title.—Sections
417 383.30-383.332 ~~383.335~~ shall be known and may be cited as the
418 "Birth Center Licensure Act."

419 Section 11. Section 383.301, Florida Statutes, is amended
420 to read:

421 383.301 Licensure and regulation of birth centers;
422 legislative intent.—It is the intent of the Legislature to
423 provide for the protection of public health and safety in the
424 establishment, maintenance, and operation of birth centers by
425 providing for licensure of birth centers and for the
426 development, establishment, and enforcement of minimum standards
427 with respect to birth centers. The requirements of part II of
428 chapter 408 shall apply to the provision of services that
429 require licensure pursuant to ss. 383.30-383.332 ~~383.335~~ and
430 part II of chapter 408 and to entities licensed by or applying
431 for such licensure from the Agency for Health Care
432 Administration pursuant to ss. 383.30-383.332 ~~383.335~~. A license
433 issued by the agency is required in order to operate a birth



805502

576-04082-17

434 center in this state.

435 Section 12. Section 383.302, Florida Statutes, is amended
436 to read:

437 383.302 Definitions of terms used in ss. 383.30-383.332
438 ~~383.335~~.—As used in ss. 383.30-383.332 ~~383.335~~, the term:

439 (1) "Agency" means the Agency for Health Care
440 Administration.

441 (2) "Birth center" means any facility, institution, or
442 place, which is not an ambulatory surgical center or a hospital
443 or in a hospital, in which births are planned to occur away from
444 the mother's usual residence following a normal, uncomplicated,
445 low-risk pregnancy.

446 (3) "Clinical staff" means individuals employed full time
447 or part time by a birth center who are licensed or certified to
448 provide care at childbirth.

449 (4) "Consultant" means a physician licensed pursuant to
450 chapter 458 or chapter 459 who agrees to provide advice and
451 services to a birth center and who either:

452 (a) Is certified or eligible for certification by the
453 American Board of Obstetrics and Gynecology, or

454 (b) Has hospital obstetrical privileges.

455 (5) "Governing body" means any individual, group,
456 corporation, or institution which is responsible for the overall
457 operation and maintenance of a birth center.

458 (6) "Governmental unit" means the state or any county,
459 municipality, or other political subdivision or any department,
460 division, board, or other agency of any of the foregoing.

461 (7) "Licensed facility" means a facility licensed in
462 accordance with s. 383.305.



805502

576-04082-17

463 (8) "Low-risk pregnancy" means a pregnancy which is
464 expected to result in an uncomplicated birth, as determined
465 through risk criteria developed by rule of the department, and
466 which is accompanied by adequate prenatal care.

467 (9) "Person" means any individual, firm, partnership,
468 corporation, company, association, institution, or joint stock
469 association and means any legal successor of any of the
470 foregoing.

471 (10) "Premises" means those buildings, beds, and facilities
472 located at the main address of the licensee and all other
473 buildings, beds, and facilities for the provision of maternity
474 care located in such reasonable proximity to the main address of
475 the licensee as to appear to the public to be under the dominion
476 and control of the licensee.

477 Section 13. Subsection (1) of section 383.305, Florida
478 Statutes, is amended to read:

479 383.305 Licensure; fees.—

480 (1) In accordance with s. 408.805, an applicant or a
481 licensee shall pay a fee for each license application submitted
482 under ss. 383.30-383.332 ~~383.335~~ and part II of chapter 408. The
483 amount of the fee shall be established by rule.

484 Section 14. Subsection (1) of section 383.309, Florida
485 Statutes, is amended to read:

486 383.309 Minimum standards for birth centers; rules and
487 enforcement.—

488 (1) The agency shall adopt and enforce rules to administer
489 ss. 383.30-383.332 ~~383.335~~ and part II of chapter 408, which
490 rules shall include, but are not limited to, reasonable and fair
491 minimum standards for ensuring that:



805502

576-04082-17

492 (a) Sufficient numbers and qualified types of personnel and
493 occupational disciplines are available at all times to provide
494 necessary and adequate patient care and safety.

495 (b) Infection control, housekeeping, sanitary conditions,
496 disaster plan, and medical record procedures that will
497 adequately protect patient care and provide safety are
498 established and implemented.

499 (c) Licensed facilities are established, organized, and
500 operated consistent with established programmatic standards.

501 Section 15. Subsection (1) of section 383.313, Florida
502 Statutes, is amended to read:

503 383.313 Performance of laboratory and surgical services;
504 use of anesthetic and chemical agents.—

505 (1) LABORATORY SERVICES.—A birth center may collect
506 specimens for those tests that are requested under protocol. A
507 birth center must obtain and continuously maintain certification
508 by the Centers for Medicare and Medicaid Services under the
509 federal Clinical Laboratory Improvements Amendments and rules
510 adopted thereunder in order to may perform ~~simple~~ laboratory
511 tests specified, as defined by rule of the agency, and which are
512 appropriate to meet the needs of the patient ~~is exempt from the~~
513 ~~requirements of chapter 483, provided no more than five~~
514 ~~physicians are employed by the birth center and testing is~~
515 ~~conducted exclusively in connection with the diagnosis and~~
516 ~~treatment of clients of the birth center.~~

517 Section 16. Subsection (1) and paragraph (a) of subsection
518 (2) of section 383.33, Florida Statutes, are amended to read:

519 383.33 Administrative penalties; moratorium on admissions.—

520 (1) In addition to the requirements of part II of chapter



805502

576-04082-17

521 408, the agency may impose an administrative fine not to exceed
522 \$500 per violation per day for the violation of any provision of
523 ss. 383.30-~~383.332~~ ~~383.335~~, part II of chapter 408, or
524 applicable rules.

525 (2) In determining the amount of the fine to be levied for
526 a violation, as provided in this section, the following factors
527 shall be considered:

528 (a) The severity of the violation, including the
529 probability that death or serious harm to the health or safety
530 of any person will result or has resulted; the severity of the
531 actual or potential harm; and the extent to which the provisions
532 of ss. 383.30-~~383.332~~ ~~383.335~~, part II of chapter 408, or
533 applicable rules were violated.

534 Section 17. Section 383.335, Florida Statutes, is repealed.

535 Section 18. Section 384.31, Florida Statutes, is amended to
536 read:

537 384.31 Testing of pregnant women; duty of the attendant.—
538 Every person, including every physician licensed under chapter
539 458 or chapter 459 or midwife licensed under part I of chapter
540 464 or chapter 467, attending a pregnant woman for conditions
541 relating to pregnancy during the period of gestation and
542 delivery shall cause the woman to be tested for sexually
543 transmissible diseases, including HIV, as specified by
544 department rule. Testing shall be performed by a laboratory
545 appropriately certified by the Centers for Medicare and Medicaid
546 Services under the federal Clinical Laboratory Improvement
547 Amendments and the federal rules adopted thereunder ~~approved~~ for
548 such purposes ~~under part I of chapter 483~~. The woman shall be
549 informed of the tests that will be conducted and of her right to



805502

576-04082-17

550 refuse testing. If a woman objects to testing, a written
551 statement of objection, signed by the woman, shall be placed in
552 the woman's medical record and no testing shall occur.

553 Section 19. Subsection (2) of section 385.211, Florida
554 Statutes, is amended to read:

555 385.211 Refractory and intractable epilepsy treatment and
556 research at recognized medical centers.—

557 (2) Notwithstanding chapter 893, medical centers recognized
558 pursuant to s. 381.925, or an academic medical research
559 institution legally affiliated with a licensed children's
560 specialty hospital as defined in s. 395.002(27) ~~s. 395.002(28)~~
561 that contracts with the Department of Health, may conduct
562 research on cannabidiol and low-THC cannabis. This research may
563 include, but is not limited to, the agricultural development,
564 production, clinical research, and use of liquid medical
565 derivatives of cannabidiol and low-THC cannabis for the
566 treatment for refractory or intractable epilepsy. The authority
567 for recognized medical centers to conduct this research is
568 derived from 21 C.F.R. parts 312 and 316. Current state or
569 privately obtained research funds may be used to support the
570 activities described in this section.

571 Section 20. Subsection (7) of section 394.4787, Florida
572 Statutes, is amended to read:

573 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
574 394.4789.—As used in this section and ss. 394.4786, 394.4788,
575 and 394.4789:

576 (7) "Specialty psychiatric hospital" means a hospital
577 licensed by the agency pursuant to s. 395.002(27) ~~s. 395.002(28)~~
578 and part II of chapter 408 as a specialty psychiatric hospital.



805502

576-04082-17

579 Section 21. Section 395.001, Florida Statutes, is amended
580 to read:

581 395.001 Legislative intent.—It is the intent of the
582 Legislature to provide for the protection of public health and
583 safety in the establishment, construction, maintenance, and
584 operation of hospitals ~~and~~, ambulatory surgical centers, ~~and~~
585 ~~mobile surgical facilities~~ by providing for licensure of same
586 and for the development, establishment, and enforcement of
587 minimum standards with respect thereto.

588 Section 22. Present subsections (22) through (33) of
589 section 395.002, Florida Statutes, are renumbered as subsections
590 (21) through (32), respectively, and subsections (3) and (16)
591 and present subsections (21) and (23) of that section are
592 amended, to read:

593 395.002 Definitions.—As used in this chapter:

594 (3) "Ambulatory surgical center" ~~or "mobile surgical~~
595 ~~facility"~~ means a facility the primary purpose of which is to
596 provide elective surgical care, in which the patient is admitted
597 to and discharged from such facility within the same working day
598 and is not permitted to stay overnight, and which is not part of
599 a hospital. However, a facility existing for the primary purpose
600 of performing terminations of pregnancy, an office maintained by
601 a physician for the practice of medicine, or an office
602 maintained for the practice of dentistry shall not be construed
603 to be an ambulatory surgical center, provided that any facility
604 or office which is certified or seeks certification as a
605 Medicare ambulatory surgical center shall be licensed as an
606 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~
607 ~~or vehicle in which a physician maintains an office and~~



805502

576-04082-17

608 ~~practices surgery, and which can appear to the public to be a~~
609 ~~mobile office because the structure or vehicle operates at more~~
610 ~~than one address, shall be construed to be a mobile surgical~~
611 ~~facility.~~

612 (16) "Licensed facility" means a hospital ~~or~~, ambulatory
613 surgical center, ~~or mobile surgical facility~~ licensed in
614 accordance with this chapter.

615 ~~(21) "Mobile surgical facility" is a mobile facility in~~
616 ~~which licensed health care professionals provide elective~~
617 ~~surgical care under contract with the Department of Corrections~~
618 ~~or a private correctional facility operating pursuant to chapter~~
619 ~~957 and in which inmate patients are admitted to and discharged~~
620 ~~from said facility within the same working day and are not~~
621 ~~permitted to stay overnight. However, mobile surgical facilities~~
622 ~~may only provide health care services to the inmate patients of~~
623 ~~the Department of Corrections, or inmate patients of a private~~
624 ~~correctional facility operating pursuant to chapter 957, and not~~
625 ~~to the general public.~~

626 ~~(22)-(23)~~ "Premises" means those buildings, beds, and
627 equipment located at the address of the licensed facility and
628 all other buildings, beds, and equipment for the provision of
629 hospital ~~or~~, ambulatory surgical, ~~or mobile surgical~~ care
630 located in such reasonable proximity to the address of the
631 licensed facility as to appear to the public to be under the
632 dominion and control of the licensee. For any licensee that is a
633 teaching hospital as defined in s. 408.07(44) ~~s. 408.07(45)~~,
634 reasonable proximity includes any buildings, beds, services,
635 programs, and equipment under the dominion and control of the
636 licensee that are located at a site with a main address that is



805502

576-04082-17

within 1 mile of the main address of the licensed facility; and all such buildings, beds, and equipment may, at the request of a licensee or applicant, be included on the facility license as a single premises.

Section 23. Paragraphs (a) and (b) of subsection (1) and paragraph (b) of subsection (2) of section 395.003, Florida Statutes, are amended to read:

395.003 Licensure; denial, suspension, and revocation.—

(1)(a) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to ss. 395.001-395.1065 and part II of chapter 408 and to entities licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to ss. 395.001-395.1065. A license issued by the agency is required in order to operate a hospital or ambulatory surgical center, ~~or mobile surgical facility~~ in this state.

(b)1. It is unlawful for a person to use or advertise to the public, in any way or by any medium whatsoever, any facility as a "hospital," or "ambulatory surgical center," ~~or "mobile surgical facility"~~ unless such facility has first secured a license under the provisions of this part.

2. This part does not apply to veterinary hospitals or to commercial business establishments using the word "hospital," or "ambulatory surgical center," ~~or "mobile surgical facility"~~ as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

(2)

(b) The agency shall, at the request of a licensee that is a teaching hospital as defined in s. 408.07(44) ~~s. 408.07(45)~~,



805502

576-04082-17

issue a single license to a licensee for facilities that have been previously licensed as separate premises, provided such separately licensed facilities, taken together, constitute the same premises as defined in s. 395.002(22) ~~s. 395.002(23)~~. Such license for the single premises shall include all of the beds, services, and programs that were previously included on the licenses for the separate premises. The granting of a single license under this paragraph shall not in any manner reduce the number of beds, services, or programs operated by the licensee.

Section 24. Subsection (1) of section 395.009, Florida Statutes, is amended to read:

395.009 Minimum standards for clinical laboratory test results and diagnostic X-ray results; prerequisite for issuance or renewal of license.—

(1) As a requirement for issuance or renewal of its license, each licensed facility shall require that all clinical laboratory tests performed by or for the licensed facility be performed by a clinical laboratory appropriately certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder ~~licensed under the provisions of chapter 483.~~

Section 25. Section 395.0091, Florida Statutes, is created to read:

395.0091 Alternate-site testing.—The agency, in consultation with the Board of Clinical Laboratory Personnel, shall adopt by rule the criteria for alternate-site testing to be performed under the supervision of a clinical laboratory director. At a minimum, the criteria must address: hospital internal needs assessment; a protocol for implementation,



805502

576-04082-17

695 including the identification of tests to be performed and who
696 will perform them; selection of the method of testing to be used
697 for alternate-site testing; minimum training and education
698 requirements for those who will perform alternate-site testing,
699 such as documented training, licensure, certification, or other
700 medical professional background not limited to laboratory
701 professionals; documented inservice training and initial and
702 ongoing competency validation; an appropriate internal and
703 external quality control protocol; an internal mechanism for the
704 central laboratory to identify and track alternate-site testing;
705 and recordkeeping requirements. Alternate-site testing locations
706 must register when the hospital applies to renew its license.
707 For purposes of this section, the term "alternate-site testing"
708 means any laboratory testing done under the administrative
709 control of a hospital, but performed out of the physical or
710 administrative confines of the central laboratory.

711 Section 26. Paragraph (f) of subsection (1) of section
712 395.0161, Florida Statutes, is amended to read:

713 395.0161 Licensure inspection.—

714 (1) In addition to the requirement of s. 408.811, the
715 agency shall make or cause to be made such inspections and
716 investigations as it deems necessary, including:

717 ~~(f) Inspections of mobile surgical facilities at each time~~
718 ~~a facility establishes a new location, prior to the admission of~~
719 ~~patients. However, such inspections shall not be required when a~~
720 ~~mobile surgical facility is moved temporarily to a location~~
721 ~~where medical treatment will not be provided.~~

722 Section 27. Subsection (3) of section 395.0163, Florida
723 Statutes, is amended to read:



805502

576-04082-17

724 395.0163 Construction inspections; plan submission and
725 approval; fees.—

726 ~~(3) In addition to the requirements of s. 408.811, the~~
727 ~~agency shall inspect a mobile surgical facility at initial~~
728 ~~licensure and at each time the facility establishes a new~~
729 ~~location, prior to admission of patients. However, such~~
730 ~~inspections shall not be required when a mobile surgical~~
731 ~~facility is moved temporarily to a location where medical~~
732 ~~treatment will not be provided.~~

733 Section 28. Subsection (2), paragraph (c) of subsection
734 (6), and subsections (16) and (17) of section 395.0197, Florida
735 Statutes, are amended to read:

736 395.0197 Internal risk management program.—

737 (2) The internal risk management program is the
738 responsibility of the governing board of the health care
739 facility. Each licensed facility shall hire a risk manager,
740 ~~licensed under s. 395.10974,~~ who is responsible for
741 implementation and oversight of such facility's internal risk
742 management program and who demonstrates competence, by education
743 or experience, in all of the following areas: as required by
744 ~~this section. A risk manager must not be made responsible for~~
745 ~~more than four internal risk management programs in separate~~
746 ~~licensed facilities, unless the facilities are under one~~
747 ~~corporate ownership or the risk management programs are in rural~~
748 ~~hospitals.~~

749 (a) Applicable standards of health care risk management.

750 (b) Applicable federal, state, and local health and safety
751 laws and rules.

752 (c) General risk management administration.



805502

576-04082-17

753 (d) Patient care.
754 (e) Medical care.
755 (f) Personal and social care.
756 (g) Accident prevention.
757 (h) Departmental organization and management.
758 (i) Community interrelationships.
759 (j) Medical terminology.
760 (6)
761 (c) The report submitted to the agency shall also contain
762 the name ~~and license number~~ of the risk manager of the licensed
763 facility, a copy of its policy and procedures which govern the
764 measures taken by the facility and its risk manager to reduce
765 the risk of injuries and adverse incidents, and the results of
766 such measures. The annual report is confidential and is not
767 available to the public pursuant to s. 119.07(1) or any other
768 law providing access to public records. The annual report is not
769 discoverable or admissible in any civil or administrative
770 action, except in disciplinary proceedings by the agency or the
771 appropriate regulatory board. The annual report is not available
772 to the public as part of the record of investigation for and
773 prosecution in disciplinary proceedings made available to the
774 public by the agency or the appropriate regulatory board.
775 However, the agency or the appropriate regulatory board shall
776 make available, upon written request by a health care
777 professional against whom probable cause has been found, any
778 such records which form the basis of the determination of
779 probable cause.
780 (16) There shall be no monetary liability on the part of,
781 and no cause of action for damages shall arise against, any risk



805502

576-04082-17

782 manager, ~~licensed under s. 395.10974,~~ for the implementation and
783 oversight of the internal risk management program in a facility
784 licensed under this chapter or chapter 390 as required by this
785 section, for any act or proceeding undertaken or performed
786 within the scope of the functions of such internal risk
787 management program if the risk manager acts without intentional
788 fraud.
789 (17) A privilege against civil liability is hereby granted
790 to any ~~licensed~~ risk manager or licensed facility with regard to
791 information furnished pursuant to this chapter, unless the
792 ~~licensed~~ risk manager or facility acted in bad faith or with
793 malice in providing such information.
794 Section 29. Section 395.1046, Florida Statutes, is
795 repealed.
796 Section 30. Subsections (2) and (3) of section 395.1055,
797 Florida Statutes, are amended, and paragraph (i) is added to
798 subsection (1), to read:
799 395.1055 Rules and enforcement.—
800 (1) The agency shall adopt rules pursuant to ss. 120.536(1)
801 and 120.54 to implement the provisions of this part, which shall
802 include reasonable and fair minimum standards for ensuring that:
803 (i) All hospitals providing pediatric cardiac
804 catheterization, pediatric open-heart surgery, organ
805 transplantation, neonatal intensive care services, psychiatric
806 services, or comprehensive medical rehabilitation meet the
807 minimum licensure requirements adopted by the agency. Such
808 licensure requirements must include quality of care, nurse
809 staffing, physician staffing, physical plant, equipment,
810 emergency transportation, and data reporting standards.



805502

576-04082-17

811 (2) Separate standards may be provided for general and
812 specialty hospitals, ambulatory surgical centers, ~~mobile~~
813 ~~surgical facilities~~, and statutory rural hospitals as defined in
814 s. 395.602.

815 (3) The agency shall adopt rules with respect to the care
816 and treatment of patients residing in distinct part nursing
817 units of hospitals which are certified for participation in
818 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social
819 Security Act skilled nursing facility program. Such rules shall
820 take into account the types of patients treated in hospital
821 skilled nursing units, including typical patient acuity levels
822 and the average length of stay in such units, and shall be
823 limited to the appropriate portions of the Omnibus Budget
824 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
825 1987), Title IV (Medicare, Medicaid, and Other Health-Related
826 Programs), Subtitle C (Nursing Home Reform), as amended. The
827 agency shall require level 2 background screening as specified
828 in s. 408.809(1)(e) pursuant to s. 408.809 and chapter 435 for
829 personnel of distinct part nursing units.

830 Section 31. Section 395.10971, Florida Statutes, is
831 repealed.

832 Section 32. Section 395.10972, Florida Statutes, is
833 repealed.

834 Section 33. Section 395.10973, Florida Statutes, is amended
835 to read:

836 395.10973 Powers and duties of the agency.—It is the
837 function of the agency to:

838 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
839 implement the provisions of this part and part II of chapter 408



805502

576-04082-17

840 conferring duties upon it.

841 ~~(2) Develop, impose, and enforce specific standards within~~
842 ~~the scope of the general qualifications established by this part~~
843 ~~which must be met by individuals in order to receive licenses as~~
844 ~~health care risk managers. These standards shall be designed to~~
845 ~~ensure that health care risk managers are individuals of good~~
846 ~~character and otherwise suitable and, by training or experience~~
847 ~~in the field of health care risk management, qualified in~~
848 ~~accordance with the provisions of this part to serve as health~~
849 ~~care risk managers, within statutory requirements.~~

850 ~~(3) Develop a method for determining whether an individual~~
851 ~~meets the standards set forth in s. 395.10974.~~

852 ~~(4) Issue licenses to qualified individuals meeting the~~
853 ~~standards set forth in s. 395.10974.~~

854 ~~(5) Receive, investigate, and take appropriate action with~~
855 ~~respect to any charge or complaint filed with the agency to the~~
856 ~~effect that a certified health care risk manager has failed to~~
857 ~~comply with the requirements or standards adopted by rule by the~~
858 ~~agency or to comply with the provisions of this part.~~

859 ~~(6) Establish procedures for providing periodic reports on~~
860 ~~persons certified or disciplined by the agency under this part.~~

861 ~~(2)(7)~~ Develop a model risk management program for health
862 care facilities which will satisfy the requirements of s.
863 395.0197.

864 ~~(3)(8)~~ Enforce the special-occupancy provisions of the
865 Florida Building Code which apply to hospitals, intermediate
866 residential treatment facilities, and ambulatory surgical
867 centers in conducting any inspection authorized by this chapter
868 and part II of chapter 408.



805502

576-04082-17

869 Section 34. Section 395.10974, Florida Statutes, is
870 repealed.
871 Section 35. Section 395.10975, Florida Statutes, is
872 repealed.
873 Section 36. Subsection (2) of section 395.602, Florida
874 Statutes, is amended to read:
875 395.602 Rural hospitals.—
876 (2) DEFINITIONS.—As used in this part, the term:
877 (a) ~~“Emergency care hospital” means a medical facility~~
878 ~~which provides:~~
879 1. ~~Emergency medical treatment; and~~
880 2. ~~Inpatient care to ill or injured persons prior to their~~
881 ~~transportation to another hospital or provides inpatient medical~~
882 ~~care to persons needing care for a period of up to 96 hours. The~~
883 ~~96-hour limitation on inpatient care does not apply to respite,~~
884 ~~skilled nursing, hospice, or other nonacute care patients.~~
885 (b) ~~“Essential access community hospital” means any~~
886 ~~facility which:~~
887 1. ~~Has at least 100 beds;~~
888 2. ~~Is located more than 35 miles from any other essential~~
889 ~~access community hospital, rural referral center, or urban~~
890 ~~hospital meeting criteria for classification as a regional~~
891 ~~referral center;~~
892 3. ~~Is part of a network that includes rural primary care~~
893 ~~hospitals;~~
894 4. ~~Provides emergency and medical backup services to rural~~
895 ~~primary care hospitals in its rural health network;~~
896 5. ~~Extends staff privileges to rural primary care hospital~~
897 ~~physicians in its network; and~~



805502

576-04082-17

898 ~~6. Accepts patients transferred from rural primary care~~
899 ~~hospitals in its network.~~
900 (c) ~~“Inactive rural hospital bed” means a licensed acute~~
901 ~~care hospital bed, as defined in s. 395.002(13), that is~~
902 ~~inactive in that it cannot be occupied by acute care inpatients.~~
903 (a) ~~(d)~~ “Rural area health education center” means an area
904 health education center (AHEC), as authorized by Pub. L. No. 94-
905 484, which provides services in a county with a population
906 density of up to ~~no greater than~~ 100 persons per square mile.
907 (b) ~~(e)~~ “Rural hospital” means an acute care hospital
908 licensed under this chapter, having 100 or fewer licensed beds
909 and an emergency room, which is:
910 1. The sole provider within a county with a population
911 density of up to 100 persons per square mile;
912 2. An acute care hospital, in a county with a population
913 density of up to 100 persons per square mile, which is at least
914 30 minutes of travel time, on normally traveled roads under
915 normal traffic conditions, from any other acute care hospital
916 within the same county;
917 3. A hospital supported by a tax district or subdistrict
918 whose boundaries encompass a population of up to 100 persons per
919 square mile;
920 4. A hospital classified as a sole community hospital under
921 42 C.F.R. s. 412.92 which has up to 175 licensed beds;
922 5. A hospital with a service area that has a population of
923 up to 100 persons per square mile. As used in this subparagraph,
924 the term “service area” means the fewest number of zip codes
925 that account for 75 percent of the hospital’s discharges for the
926 most recent 5-year period, based on information available from



805502

576-04082-17

the hospital inpatient discharge database in the Florida Center for Health Information and Transparency at the agency; or

6. A hospital designated as a critical access hospital, as defined in s. 408.07.

Population densities used in this paragraph must be based upon the most recently completed United States census. A hospital that received funds under s. 409.9116 for a quarter beginning no later than July 1, 2002, is deemed to have been and shall continue to be a rural hospital from that date through June 30, 2021, if the hospital continues to have up to 100 licensed beds and an emergency room. An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria of this paragraph shall be granted such designation upon application, including supporting documentation, to the agency. A hospital that was licensed as a rural hospital during the 2010-2011 or 2011-2012 fiscal year shall continue to be a rural hospital from the date of designation through June 30, 2021, if the hospital continues to have up to 100 licensed beds and an emergency room.

~~(f) "Rural primary care hospital" means any facility meeting the criteria in paragraph (c) or s. 395.605 which provides:~~

~~1. Twenty-four-hour emergency medical care;~~

~~2. Temporary inpatient care for periods of 72 hours or less to patients requiring stabilization before discharge or transfer to another hospital. The 72-hour limitation does not apply to respite, skilled nursing, hospice, or other nonacute care patients; and~~



805502

576-04082-17

~~3. Has no more than six licensed acute care inpatient beds.~~

~~(c)(g)~~ "Swing-bed" means a bed which can be used interchangeably as either a hospital, skilled nursing facility (SNF), or intermediate care facility (ICF) bed pursuant to 42 C.F.R. parts 405, 435, 440, 442, and 447.

Section 37. Section 395.603, Florida Statutes, is amended to read:

~~395.603 Deactivation of general hospital beds. Rural hospital impact statement.—~~

~~(1) The agency shall establish, by rule, a process by which a rural hospital, as defined in s. 395.602, that seeks licensure as a rural primary care hospital or as an emergency care hospital, or becomes a certified rural health clinic as defined in Pub. L. No. 95-210, or becomes a primary care program such as a county health department, community health center, or other similar outpatient program that provides preventive and curative services, may deactivate general hospital beds. Rural primary care hospitals and emergency care hospitals shall maintain the number of actively licensed general hospital beds necessary for the facility to be certified for Medicare reimbursement. Hospitals that discontinue inpatient care to become rural health care clinics or primary care programs shall deactivate all licensed general hospital beds. All hospitals, clinics, and programs with inactive beds shall provide 24-hour emergency medical care by staffing an emergency room. Providers with inactive beds shall be subject to the criteria in s. 395.1041. The agency shall specify in rule requirements for making 24-hour emergency care available. Inactive general hospital beds shall be included in the acute care bed inventory, maintained by the~~



805502

576-04082-17

985 ~~agency for certificate-of-need purposes, for 10 years from the~~
986 ~~date of deactivation of the beds. After 10 years have elapsed,~~
987 ~~inactive beds shall be excluded from the inventory. The agency~~
988 ~~shall, at the request of the licensee, reactivate the inactive~~
989 ~~general beds upon a showing by the licensee that licensure~~
990 ~~requirements for the inactive general beds are met.~~
991 ~~(2)~~ In formulating and implementing policies and rules that
992 may have significant impact on the ability of rural hospitals to
993 continue to provide health care services in rural communities,
994 the agency, the department, or the respective regulatory board
995 adopting policies or rules regarding the licensure or
996 certification of health care professionals shall provide a rural
997 hospital impact statement. The rural hospital impact statement
998 shall assess the proposed action in light of the following
999 questions:
1000 (1) ~~(a)~~ Do the health personnel affected by the proposed
1001 action currently practice in rural hospitals or are they likely
1002 to in the near future?
1003 (2) ~~(b)~~ What are the current numbers of the affected health
1004 personnel in this state, their geographic distribution, and the
1005 number practicing in rural hospitals?
1006 (3) ~~(c)~~ What are the functions presently performed by the
1007 affected health personnel, and are such functions presently
1008 performed in rural hospitals?
1009 (4) ~~(d)~~ What impact will the proposed action have on the
1010 ability of rural hospitals to recruit the affected personnel to
1011 practice in their facilities?
1012 (5) ~~(e)~~ What impact will the proposed action have on the
1013 limited financial resources of rural hospitals through increased



805502

576-04082-17

1014 salaries and benefits necessary to recruit or retain such health
1015 personnel?
1016 (6) ~~(f)~~ Is there a less stringent requirement which could
1017 apply to practice in rural hospitals?
1018 (7) ~~(g)~~ Will this action create staffing shortages, which
1019 could result in a loss to the public of health care services in
1020 rural hospitals or result in closure of any rural hospitals?
1021 Section 38. Section 395.604, Florida Statutes, is repealed.
1022 Section 39. Section 395.605, Florida Statutes, is repealed.
1023 Section 40. Paragraph (c) of subsection (1) of section
1024 395.701, Florida Statutes, is amended to read:
1025 395.701 Annual assessments on net operating revenues for
1026 inpatient and outpatient services to fund public medical
1027 assistance; administrative fines for failure to pay assessments
1028 when due; exemption.-
1029 (1) For the purposes of this section, the term:
1030 (c) "Hospital" means a health care institution as defined
1031 in s. 395.002(12), but does not include any hospital operated by
1032 a state ~~the agency or the Department of Corrections.~~
1033 Section 41. Paragraph (b) of subsection (2) of section
1034 395.7015, Florida Statutes, is amended to read:
1035 395.7015 Annual assessment on health care entities.-
1036 (2) There is imposed an annual assessment against certain
1037 health care entities as described in this section:
1038 (b) For the purpose of this section, "health care entities"
1039 include the following:
1040 1. Ambulatory surgical centers ~~and mobile surgical~~
1041 ~~facilities licensed under s. 395.003. This subsection shall only~~
1042 ~~apply to mobile surgical facilities operating under contracts~~



805502

576-04082-17

1043 ~~entered into on or after July 1, 1998.~~

1044 ~~2. Clinical laboratories licensed under s. 483.091,~~
1045 ~~excluding any hospital laboratory defined under s. 483.041(6),~~
1046 ~~any clinical laboratory operated by the state or a political~~
1047 ~~subdivision of the state, any clinical laboratory which~~
1048 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
1049 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
1050 ~~percent or more of its gross revenues from services to charity~~
1051 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~
1052 ~~bank procuring, storing, or distributing blood, plasma, or~~
1053 ~~tissue either for future manufacture or research or distributed~~
1054 ~~on a nonprofit basis, and further excluding any clinical~~
1055 ~~laboratory which is wholly owned and operated by 6 or fewer~~
1056 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
1057 ~~459 and who practice in the same group practice, and at which no~~
1058 ~~clinical laboratory work is performed for patients referred by~~
1059 ~~any health care provider who is not a member of the same group.~~

1060 ~~2.3.~~ Diagnostic-imaging centers that are freestanding
1061 outpatient facilities that provide specialized services for the
1062 identification or determination of a disease through examination
1063 and also provide sophisticated radiological services, and in
1064 which services are rendered by a physician licensed by the Board
1065 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
1066 an osteopathic physician licensed by the Board of Osteopathic
1067 Medicine under s. 459.0055 or s. 459.0075. For purposes of this
1068 paragraph, "sophisticated radiological services" means the
1069 following: magnetic resonance imaging; nuclear medicine;
1070 angiography; arteriography; computed tomography; positron
1071 emission tomography; digital vascular imaging; bronchography;



805502

576-04082-17

1072 lymphangiography; splenography; ultrasound, excluding ultrasound
1073 providers that are part of a private physician's office practice
1074 or when ultrasound is provided by two or more physicians
1075 licensed under chapter 458 or chapter 459 who are members of the
1076 same professional association and who practice in the same
1077 medical specialties; and such other sophisticated radiological
1078 services, excluding mammography, as adopted in rule by the
1079 board.

1080 Section 42. Subsection (1) of section 400.0625, Florida
1081 Statutes, is amended to read:

1082 400.0625 Minimum standards for clinical laboratory test
1083 results and diagnostic X-ray results.—

1084 (1) Each nursing home, as a requirement for issuance or
1085 renewal of its license, shall require that all clinical
1086 laboratory tests performed for the nursing home be performed by
1087 a clinical laboratory appropriately certified by the Centers for
1088 Medicare and Medicaid Services under the federal Clinical
1089 Laboratory Improvement Amendments and the federal rules adopted
1090 thereunder ~~licensed under the provisions of chapter 483~~, except
1091 for such self-testing procedures as are approved by the agency
1092 by rule. ~~Results of clinical laboratory tests performed prior to~~
1093 ~~admission which meet the minimum standards provided in s.~~
1094 ~~483.181(3) shall be accepted in lieu of routine examinations~~
1095 ~~required upon admission and clinical laboratory tests which may~~
1096 ~~be ordered by a physician for residents of the nursing home.~~

1097 Section 43. Subsection (1) and paragraphs (b), (e), and (f)
1098 of subsection (4) of section 400.464, Florida Statutes, are
1099 amended, and subsection (6) is added to that section, to read:

1100 400.464 Home health agencies to be licensed; expiration of



805502

576-04082-17

license; exemptions; unlawful acts; penalties.-

(1) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this part and part II of chapter 408 and entities licensed or registered by or applying for such licensure or registration from the Agency for Health Care Administration pursuant to this part. A license issued by the agency is required in order to operate a home health agency in this state. A license issued on or after July 1, 2017, must specify the home health services the organization is authorized to perform and indicate whether such specified services are considered skilled care. The provision or advertising of services that require licensure pursuant to this part without such services being specified on the face of the license issued on or after July 1, 2017, constitutes unlicensed activity as prohibited under s. 408.812.

(4)

(b) The operation or maintenance of an unlicensed home health agency or the performance of any home health services in violation of this part is declared a nuisance, inimical to the public health, welfare, and safety. The agency or any state attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the home health agency or the provision of home health services in violation of this part or part II of chapter 408, until compliance with this part or the rules adopted under this part has been demonstrated to the satisfaction of the agency.

(e) Any person who owns, operates, or maintains an unlicensed home health agency and who, ~~within 10 working days~~



805502

576-04082-17

after receiving notification from the agency, fails to cease operation and apply for a license under this part commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continued operation is a separate offense.

(f) Any home health agency that fails to cease operation after agency notification may be fined in accordance with s. 408.812 \$500 for each day of noncompliance.

(6) Any person, entity, or organization providing home health services which is exempt from licensure under subsection (5) may voluntarily apply for a certificate of exemption from licensure under its exempt status with the agency on a form that specifies its name or names and addresses, a statement of the reasons why it is exempt from licensure as a home health agency, and other information deemed necessary by the agency. A certificate of exemption is valid for a period of not more than 2 years and is not transferable. The agency may charge an applicant for a certificate of exemption \$100 or the actual cost of processing the certificate.

Section 44. Subsections (7) through (10) of section 400.471, Florida Statutes, are redesignated as subsections (6) through (9), respectively, and subsection (2) and present subsections (6) and (10) of that section are amended, to read:

400.471 Application for license; fee.-

(2) In addition to the requirements of part II of chapter 408, the initial applicant, the applicant for a change of ownership, and the applicant for the addition of skilled care services must file with the application satisfactory proof that the home health agency is in compliance with this part and



805502

576-04082-17

1159 applicable rules, including:

1160 (a) A listing of services to be provided, either directly
1161 by the applicant or through contractual arrangements with
1162 existing providers.

1163 (b) The number and discipline of professional staff to be
1164 employed.

1165 ~~(c) Completion of questions concerning volume data on the~~
1166 ~~renewal application as determined by rule.~~

1167 ~~(c)(d)~~ A business plan, signed by the applicant, which
1168 details the home health agency's methods to obtain patients and
1169 its plan to recruit and maintain staff.

1170 ~~(d)(e)~~ Evidence of contingency funding as required under s.
1171 408.8065 equal to 1 month's average operating expenses during
1172 the first year of operation.

1173 ~~(e)(f)~~ A balance sheet, income and expense statement, and
1174 statement of cash flows for the first 2 years of operation which
1175 provide evidence of having sufficient assets, credit, and
1176 projected revenues to cover liabilities and expenses. The
1177 applicant has demonstrated financial ability to operate if the
1178 applicant's assets, credit, and projected revenues meet or
1179 exceed projected liabilities and expenses. An applicant may not
1180 project an operating margin of 15 percent or greater for any
1181 month in the first year of operation. All documents required
1182 under this paragraph must be prepared in accordance with
1183 generally accepted accounting principles and compiled and signed
1184 by a certified public accountant.

1185 ~~(f)(g)~~ All other ownership interests in health care
1186 entities for each controlling interest, as defined in part II of
1187 chapter 408.



805502

576-04082-17

1188 ~~(g)(h)~~ In the case of an application for initial licensure,
1189 an application for a change of ownership, or an application for
1190 the addition of skilled care services, documentation of
1191 accreditation, or an application for accreditation, from an
1192 accrediting organization that is recognized by the agency as
1193 having standards comparable to those required by this part and
1194 part II of chapter 408. A home health agency that ~~is not~~
1195 ~~Medicare or Medicaid certified~~ and does not provide skilled care
1196 is exempt from this paragraph. Notwithstanding s. 408.806, an
1197 initial applicant that has applied for accreditation must
1198 provide proof of accreditation that is not conditional or
1199 provisional and a survey demonstrating compliance with the
1200 requirements of this part, part II of chapter 408, and
1201 applicable rules from an accrediting organization that is
1202 recognized by the agency as having standards comparable to those
1203 required by this part and part II of chapter 408 within 120 days
1204 after the date of the agency's receipt of the application for
1205 licensure ~~or the application shall be withdrawn from further~~
1206 ~~consideration.~~ Such accreditation must be continuously
1207 maintained by the home health agency to maintain licensure. The
1208 agency shall accept, in lieu of its own periodic licensure
1209 survey, the submission of the survey of an accrediting
1210 organization that is recognized by the agency if the
1211 accreditation of the licensed home health agency is not
1212 provisional and if the licensed home health agency authorizes
1213 releases of, and the agency receives the report of, the
1214 accrediting organization.

1215 ~~(6) The agency may not issue a license designated as~~
1216 ~~certified to a home health agency that fails to satisfy the~~



805502

576-04082-17

1217 ~~requirements of a Medicare certification survey from the agency.~~

1218 (9) ~~(10)~~ The agency may not issue a renewal license for a
1219 home health agency in any county having at least one licensed
1220 home health agency and that has more than one home health agency
1221 per 5,000 persons, as indicated by the most recent population
1222 estimates published by the Legislature's Office of Economic and
1223 Demographic Research, if the applicant or any controlling
1224 interest has been administratively sanctioned by the agency
1225 during the 2 years prior to the submission of the licensure
1226 renewal application for one or more of the following acts:

1227 (a) An intentional or negligent act that materially affects
1228 the health or safety of a client of the provider;

1229 (b) Knowingly providing home health services in an
1230 unlicensed assisted living facility or unlicensed adult family-
1231 care home, unless the home health agency or employee reports the
1232 unlicensed facility or home to the agency within 72 hours after
1233 providing the services;

1234 (c) Preparing or maintaining fraudulent patient records,
1235 such as, but not limited to, charting ahead, recording vital
1236 signs or symptoms which were not personally obtained or observed
1237 by the home health agency's staff at the time indicated,
1238 borrowing patients or patient records from other home health
1239 agencies to pass a survey or inspection, or falsifying
1240 signatures;

1241 (d) Failing to provide at least one service directly to a
1242 patient for a period of 60 days;

1243 (e) Demonstrating a pattern of falsifying documents
1244 relating to the training of home health aides or certified
1245 nursing assistants or demonstrating a pattern of falsifying



805502

576-04082-17

1246 health statements for staff who provide direct care to patients.
1247 A pattern may be demonstrated by a showing of at least three
1248 fraudulent entries or documents;

1249 (f) Demonstrating a pattern of billing any payor for
1250 services not provided. A pattern may be demonstrated by a
1251 showing of at least three billings for services not provided
1252 within a 12-month period;

1253 (g) Demonstrating a pattern of failing to provide a service
1254 specified in the home health agency's written agreement with a
1255 patient or the patient's legal representative, or the plan of
1256 care for that patient, ~~except unless a reduction in service is~~
1257 ~~mandated by Medicare, Medicaid, or a state program or as~~
1258 provided in s. 400.492(3). A pattern may be demonstrated by a
1259 showing of at least three incidents, regardless of the patient
1260 or service, in which the home health agency did not provide a
1261 service specified in a written agreement or plan of care during
1262 a 3-month period;

1263 (h) Giving remuneration to a case manager, discharge
1264 planner, facility-based staff member, or third-party vendor who
1265 is involved in the discharge planning process of a facility
1266 licensed under chapter 395, chapter 429, or this chapter from
1267 whom the home health agency receives referrals or gives
1268 remuneration as prohibited in s. 400.474(6)(a);

1269 (i) Giving cash, or its equivalent, to a Medicare or
1270 Medicaid beneficiary;

1271 (j) Demonstrating a pattern of billing the Medicaid program
1272 for services to Medicaid recipients which are medically
1273 unnecessary as determined by a final order. A pattern may be
1274 demonstrated by a showing of at least two such medically



805502

576-04082-17

1275 unnecessary services within one Medicaid program integrity audit
1276 period;

1277 (k) Providing services to residents in an assisted living
1278 facility for which the home health agency does not receive fair
1279 market value remuneration; or

1280 (l) Providing staffing to an assisted living facility for
1281 which the home health agency does not receive fair market value
1282 remuneration.

1283 Section 45. Subsection (5) of section 400.474, Florida
1284 Statutes, is amended to read:

1285 400.474 Administrative penalties.—

1286 (5) The agency shall impose a fine of \$5,000 against a home
1287 health agency that demonstrates a pattern of failing to provide
1288 a service specified in the home health agency's written
1289 agreement with a patient or the patient's legal representative,
1290 or the plan of care for that patient, except unless a reduction
1291 in service is mandated by Medicare, Medicaid, or a state program
1292 or as provided in s. 400.492(3). A pattern may be demonstrated
1293 by a showing of at least three incidences, regardless of the
1294 patient or service, where the home health agency did not provide
1295 a service specified in a written agreement or plan of care
1296 during a 3-month period. The agency shall impose the fine for
1297 each occurrence. The agency may also impose additional
1298 administrative fines under s. 400.484 for the direct or indirect
1299 harm to a patient, or deny, revoke, or suspend the license of
1300 the home health agency for a pattern of failing to provide a
1301 service specified in the home health agency's written agreement
1302 with a patient or the plan of care for that patient.

1303 Section 46. Paragraph (c) of subsection (2) of section



805502

576-04082-17

1304 400.476, Florida Statutes, is amended to read:

1305 400.476 Staffing requirements; notifications; limitations
1306 on staffing services.—

1307 (2) DIRECTOR OF NURSING.—

1308 (c) A home health agency that provides skilled nursing care
1309 must is not Medicare or Medicaid certified and does not provide
1310 skilled care or provides only physical, occupational, or speech
1311 therapy is not required to have a director of nursing and is
1312 exempt from paragraph (b).

1313 Section 47. Section 400.484, Florida Statutes, is amended
1314 to read:

1315 400.484 Right of inspection; violations deficiencies;
1316 fines.—

1317 (1) In addition to the requirements of s. 408.811, the
1318 agency may make such inspections and investigations as are
1319 necessary in order to determine the state of compliance with
1320 this part, part II of chapter 408, and applicable rules.

1321 (2) The agency shall impose fines for various classes of
1322 violations deficiencies in accordance with the following
1323 schedule:

1324 (a) Class I violations are defined in s. 408.813 A class I
1325 deficiency is any act, omission, or practice that results in a
1326 patient's death, disablement, or permanent injury, or places a
1327 patient at imminent risk of death, disablement, or permanent
1328 injury. Upon finding a class I violation deficiency, the agency
1329 shall impose an administrative fine in the amount of \$15,000 for
1330 each occurrence and each day that the violation deficiency
1331 exists.

1332 (b) Class II violations are defined in s. 408.813 A class



805502

576-04082-17

1333 ~~II deficiency is any act, omission, or practice that has a~~
1334 ~~direct adverse effect on the health, safety, or security of a~~
1335 ~~patient.~~ Upon finding a class II violation deficiency, the
1336 agency shall impose an administrative fine in the amount of
1337 \$5,000 for each occurrence and each day that the violation
1338 ~~deficiency~~ exists.

1339 (c) Class III violations are defined in s. 408.813 A class
1340 ~~III deficiency is any act, omission, or practice that has an~~
1341 ~~indirect, adverse effect on the health, safety, or security of a~~
1342 ~~patient.~~ Upon finding an uncorrected or repeated class III
1343 violation deficiency, the agency shall impose an administrative
1344 fine not to exceed \$1,000 for each occurrence and each day that
1345 the uncorrected or repeated violation deficiency exists.

1346 (d) Class IV violations are defined in s. 408.813 A class
1347 ~~IV deficiency is any act, omission, or practice related to~~
1348 ~~required reports, forms, or documents which does not have the~~
1349 ~~potential of negatively affecting patients.~~ These violations are
1350 of a type that the agency determines do not threaten the health,
1351 safety, or security of patients. Upon finding an uncorrected or
1352 repeated class IV violation deficiency, the agency shall impose
1353 an administrative fine not to exceed \$500 for each occurrence
1354 and each day that the uncorrected or repeated violation
1355 ~~deficiency~~ exists.

1356 (3) In addition to any other penalties imposed pursuant to
1357 this section or part, the agency may assess costs related to an
1358 investigation that results in a successful prosecution,
1359 excluding costs associated with an attorney's time.

1360 Section 48. Subsection (4) of section 400.497, Florida
1361 Statutes, is amended to read:



805502

576-04082-17

1362 400.497 Rules establishing minimum standards.—The agency
1363 shall adopt, publish, and enforce rules to implement part II of
1364 chapter 408 and this part, including, as applicable, ss. 400.506
1365 and 400.509, which must provide reasonable and fair minimum
1366 standards relating to:

1367 (4) Licensure application and renewal and certificates of
1368 exemption.

1369 Section 49. Subsection (5) and paragraph (a) of subsection
1370 (15) of section 400.506, Florida Statutes, are amended to read:
1371 400.506 Licensure of nurse registries; requirements;
1372 penalties.—

1373 (5)(a) In addition to the requirements of s. 408.812, any
1374 person who owns, operates, or maintains an unlicensed nurse
1375 registry and who, ~~within 10 working days~~ after receiving
1376 notification from the agency, fails to cease operation and apply
1377 for a license under this part commits a misdemeanor of the
1378 second degree, punishable as provided in s. 775.082 or s.
1379 775.083. Each day of continued operation is a separate offense.

1380 (b) If a nurse registry fails to cease operation after
1381 agency notification, the agency may impose a fine in accordance
1382 with s. 408.812 ~~of \$500 for each day of noncompliance.~~

1383 (15)(a) The agency may deny, suspend, or revoke the license
1384 of a nurse registry and shall impose a fine of \$5,000 against a
1385 nurse registry that:

1386 1. Provides services to residents in an assisted living
1387 facility for which the nurse registry does not receive fair
1388 market value remuneration.

1389 2. Provides staffing to an assisted living facility for
1390 which the nurse registry does not receive fair market value



805502

576-04082-17

remuneration.

3. Fails to provide the agency, upon request, with copies of all contracts with assisted living facilities which were executed within the last 5 years.

~~4. Gives remuneration to a case manager, discharge planner, facility-based staff member, or third-party vendor who is involved in the discharge planning process of a facility licensed under chapter 395 or this chapter and from whom the nurse registry receives referrals. A nurse registry is exempt from this subparagraph if it does not bill the Florida Medicaid program or the Medicare program or share a controlling interest with any entity licensed, registered, or certified under part II of chapter 408 that bills the Florida Medicaid program or the Medicare program.~~

~~5. Gives remuneration to a physician, a member of the physician's office staff, or an immediate family member of the physician, and the nurse registry received a patient referral in the last 12 months from that physician or the physician's office staff. A nurse registry is exempt from this subparagraph if it does not bill the Florida Medicaid program or the Medicare program or share a controlling interest with any entity licensed, registered, or certified under part II of chapter 408 that bills the Florida Medicaid program or the Medicare program.~~

Section 50. Subsection (1) of section 400.606, Florida Statutes, is amended to read:

400.606 License; application; renewal; conditional license or permit; certificate of need.-

(1) In addition to the requirements of part II of chapter 408, the initial application and change of ownership application



805502

576-04082-17

must be accompanied by a plan for the delivery of home, residential, and homelike inpatient hospice services to terminally ill persons and their families. Such plan must contain, but need not be limited to:

(a) The estimated average number of terminally ill persons to be served monthly.

(b) The geographic area in which hospice services will be available.

(c) A listing of services which are or will be provided, either directly by the applicant or through contractual arrangements with existing providers.

(d) Provisions for the implementation of hospice home care within 3 months after licensure.

(e) Provisions for the implementation of hospice homelike inpatient care within 12 months after licensure.

(f) The number and disciplines of professional staff to be employed.

(g) The name and qualifications of any existing or potential contractee.

(h) A plan for attracting and training volunteers.

~~If the applicant is an existing licensed health care provider, the application must be accompanied by a copy of the most recent profit-loss statement and, if applicable, the most recent licensure inspection report.~~

Section 51. Subsection (6) of section 400.925, Florida Statutes, is amended to read:

400.925 Definitions.-As used in this part, the term:

(6) "Home medical equipment" includes any product as



805502

576-04082-17

1449 defined by the Federal Drug Administration's Drugs, Devices and
1450 Cosmetics Act, any products reimbursed under the Medicare Part B
1451 Durable Medical Equipment benefits, or any products reimbursed
1452 under the Florida Medicaid durable medical equipment program.
1453 Home medical equipment includes:

1454 (a) Oxygen and related respiratory equipment; ~~manual,~~
1455 ~~motorized, or customized wheelchairs and related seating and~~
1456 ~~positioning, but does not include prosthetics or orthotics or~~
1457 ~~any splints, braces, or aids custom fabricated by a licensed~~
1458 ~~health care practitioner;~~

1459 (b) Motorized scooters;

1460 (c) Personal transfer systems; and

1461 (d) Specialty beds, for use by a person with a medical
1462 need; and

1463 (e) Manual, motorized, or customized wheelchairs and
1464 related seating and positioning, but does not include
1465 prosthetics or orthotics or any splints, braces, or aids custom
1466 fabricated by a licensed health care practitioner.

1467 Section 52. Subsection (4) of section 400.931, Florida
1468 Statutes, is amended to read:

1469 400.931 Application for license; fee.—

1470 (4) When a change of the general manager of a home medical
1471 equipment provider occurs, the licensee must notify the agency
1472 of the change within the timeframes established in part II of
1473 chapter 408 and applicable rules 45 days.

1474 Section 53. Subsection (2) of section 400.933, Florida
1475 Statutes, is amended to read:

1476 400.933 Licensure inspections and investigations.—

1477 (2) The agency shall accept, in lieu of its own periodic



805502

576-04082-17

1478 inspections for licensure, submission of the following:

1479 (a) The survey or inspection of an accrediting
1480 organization, provided the accreditation of the licensed home
1481 medical equipment provider is not provisional and provided the
1482 licensed home medical equipment provider authorizes release of,
1483 and the agency receives the report of, the accrediting
1484 organization; or

1485 (b) A copy of a valid medical oxygen retail establishment
1486 permit issued by the Department of Business and Professional
1487 Regulation Health, pursuant to chapter 499.

1488 Section 54. Subsection (2) of section 400.980, Florida
1489 Statutes, is amended to read:

1490 400.980 Health care services pools.—

1491 (2) The requirements of part II of chapter 408 apply to the
1492 provision of services that require licensure or registration
1493 pursuant to this part and part II of chapter 408 and to entities
1494 registered by or applying for such registration from the agency
1495 pursuant to this part. Registration or a license issued by the
1496 agency is required for the operation of a health care services
1497 pool in this state. In accordance with s. 408.805, an applicant
1498 or licensee shall pay a fee for each license application
1499 submitted using this part, part II of chapter 408, and
1500 applicable rules. The agency shall adopt rules and provide forms
1501 required for such registration and shall impose a registration
1502 fee in an amount sufficient to cover the cost of administering
1503 this part and part II of chapter 408. In addition to the
1504 requirements in part II of chapter 408, the registrant must
1505 provide the agency with any change of information contained on
1506 the original registration application within the timeframes



805502

576-04082-17

1507 established in this part, part II of chapter 408, and applicable
1508 rules 14 days prior to the change.

1509 Section 55. Paragraphs (a) through (d) of subsection (4) of
1510 section 400.9905, Florida Statutes, are amended to read:

1511 400.9905 Definitions.—

1512 (4) "Clinic" means an entity where health care services are
1513 provided to individuals and which tenders charges for
1514 reimbursement for such services, including a mobile clinic and a
1515 portable equipment provider. As used in this part, the term does
1516 not include and the licensure requirements of this part do not
1517 apply to:

1518 (a) Entities licensed or registered by the state under
1519 chapter 395; entities licensed or registered by the state and
1520 providing only health care services within the scope of services
1521 authorized under their respective licenses under ss. 383.30-
1522 383.332 ~~383.335~~, chapter 390, chapter 394, chapter 397, this
1523 chapter except part X, chapter 429, chapter 463, chapter 465,
1524 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
1525 chapter 651; end-stage renal disease providers authorized under
1526 42 C.F.R. part 405, subpart U; providers certified under 42
1527 C.F.R. part 485, subpart B or subpart H; or any entity that
1528 provides neonatal or pediatric hospital-based health care
1529 services or other health care services by licensed practitioners
1530 solely within a hospital licensed under chapter 395.

1531 (b) Entities that own, directly or indirectly, entities
1532 licensed or registered by the state pursuant to chapter 395;
1533 entities that own, directly or indirectly, entities licensed or
1534 registered by the state and providing only health care services
1535 within the scope of services authorized pursuant to their



805502

576-04082-17

1536 respective licenses under ss. 383.30-383.332 ~~383.335~~, chapter
1537 390, chapter 394, chapter 397, this chapter except part X,
1538 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1539 ~~part I of chapter 483~~, chapter 484, or chapter 651; end-stage
1540 renal disease providers authorized under 42 C.F.R. part 405,
1541 subpart U; providers certified under 42 C.F.R. part 485, subpart
1542 B or subpart H; or any entity that provides neonatal or
1543 pediatric hospital-based health care services by licensed
1544 practitioners solely within a hospital licensed under chapter
1545 395.

1546 (c) Entities that are owned, directly or indirectly, by an
1547 entity licensed or registered by the state pursuant to chapter
1548 395; entities that are owned, directly or indirectly, by an
1549 entity licensed or registered by the state and providing only
1550 health care services within the scope of services authorized
1551 pursuant to their respective licenses under ss. 383.30-383.332
1552 ~~383.335~~, chapter 390, chapter 394, chapter 397, this chapter
1553 except part X, chapter 429, chapter 463, chapter 465, chapter
1554 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or chapter
1555 651; end-stage renal disease providers authorized under 42
1556 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.
1557 part 485, subpart B or subpart H; or any entity that provides
1558 neonatal or pediatric hospital-based health care services by
1559 licensed practitioners solely within a hospital under chapter
1560 395.

1561 (d) Entities that are under common ownership, directly or
1562 indirectly, with an entity licensed or registered by the state
1563 pursuant to chapter 395; entities that are under common
1564 ownership, directly or indirectly, with an entity licensed or



805502

576-04082-17

1565 registered by the state and providing only health care services
1566 within the scope of services authorized pursuant to their
1567 respective licenses under ss. 383.30-~~383.332~~ ~~383.335~~, chapter
1568 390, chapter 394, chapter 397, this chapter except part X,
1569 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1570 ~~part I of chapter 483~~, chapter 484, or chapter 651; end-stage
1571 renal disease providers authorized under 42 C.F.R. part 405,
1572 subpart U; providers certified under 42 C.F.R. part 485, subpart
1573 B or subpart H; or any entity that provides neonatal or
1574 pediatric hospital-based health care services by licensed
1575 practitioners solely within a hospital licensed under chapter
1576 395.

1577

1578 Notwithstanding this subsection, an entity shall be deemed a
1579 clinic and must be licensed under this part in order to receive
1580 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
1581 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1582 Section 56. Subsection (6) of section 400.9935, Florida
1583 Statutes, is amended to read:

1584 400.9935 Clinic responsibilities.—

1585 (6) Any person or entity providing health care services
1586 which is not a clinic, as defined under s. 400.9905, may
1587 voluntarily apply for a certificate of exemption from licensure
1588 under its exempt status with the agency on a form that sets
1589 forth its name or names and addresses, a statement of the
1590 reasons why it cannot be defined as a clinic, and other
1591 information deemed necessary by the agency. An exemption is
1592 valid for a period of not more than 2 years and is not
1593 transferable. The agency may charge an applicant for a



805502

576-04082-17

1594 certificate of exemption in an amount equal to \$100 or the
1595 actual cost of processing the certificate, whichever is less. An
1596 entity seeking a certificate of exemption must publish and
1597 maintain a schedule of charges for the medical services offered
1598 to patients. The schedule must include the prices charged to an
1599 uninsured person paying for such services by cash, check, credit
1600 card, or debit card. The schedule must be posted in a
1601 conspicuous place in the reception area of the entity and must
1602 include, but is not limited to, the 50 services most frequently
1603 provided by the entity. The schedule may group services by three
1604 price levels, listing services in each price level. The posting
1605 must be at least 15 square feet in size. As a condition
1606 precedent to receiving a certificate of exemption, an applicant
1607 must provide to the agency documentation of compliance with
1608 these requirements.

1609 Section 57. Paragraph (a) of subsection (2) of section
1610 408.033, Florida Statutes, is amended to read:

1611 408.033 Local and state health planning.—

1612 (2) FUNDING.—

1613 (a) The Legislature intends that the cost of local health
1614 councils be borne by assessments on selected health care
1615 facilities subject to facility licensure by the Agency for
1616 Health Care Administration, including abortion clinics, assisted
1617 living facilities, ambulatory surgical centers, birthing
1618 centers, ~~clinical laboratories except community nonprofit blood~~
1619 ~~banks and clinical laboratories operated by practitioners for~~
1620 ~~exclusive use regulated under s. 483.035~~, home health agencies,
1621 hospices, hospitals, intermediate care facilities for the
1622 developmentally disabled, nursing homes, health care clinics,



805502

576-04082-17

and multiphasic testing centers and by assessments on organizations subject to certification by the agency pursuant to chapter 641, part III, including health maintenance organizations and prepaid health clinics. Fees assessed may be collected prospectively at the time of licensure renewal and prorated for the licensure period.

Section 58. Paragraphs (e) and (p) of subsection (3) of section 408.036, Florida Statutes, are amended to read:

408.036 Projects subject to review; exemptions.-

(3) EXEMPTIONS.-Upon request, the following projects are subject to exemption from the provisions of subsection (1):

~~(e) For mobile surgical facilities and related health care services provided under contract with the Department of Corrections or a private correctional facility operating pursuant to chapter 957.~~

~~(o)(p)~~ For replacement of a licensed nursing home on the same site, or within 5 miles of the same site if within the same subdistrict, if the number of licensed beds does not increase except as permitted under paragraph ~~(e)~~ ~~(f)~~.

Section 59. Subsection (4) of section 408.061, Florida Statutes, is amended to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidential information; immunity.-

(4) Within 120 days after the end of its fiscal year, each health care facility, excluding continuing care facilities, hospitals operated by state agencies, and nursing homes as defined in s. 408.07(13) and (36) ~~s. 408.07(14) and (37)~~, shall file with the agency, on forms adopted by the agency and based



805502

576-04082-17

on the uniform system of financial reporting, its actual financial experience for that fiscal year, including expenditures, revenues, and statistical measures. Such data may be based on internal financial reports which are certified to be complete and accurate by the provider. However, hospitals' actual financial experience shall be their audited actual experience. Every nursing home shall submit to the agency, in a format designated by the agency, a statistical profile of the nursing home residents. The agency, in conjunction with the Department of Elderly Affairs and the Department of Health, shall review these statistical profiles and develop recommendations for the types of residents who might more appropriately be placed in their homes or other noninstitutional settings.

Section 60. Subsection (11) of section 408.07, Florida Statutes, is amended to read:

408.07 Definitions.-As used in this chapter, with the exception of ss. 408.031-408.045, the term:

~~(11) "Clinical laboratory" means a facility licensed under s. 483.091, excluding: any hospital laboratory defined under s. 483.041(6); any clinical laboratory operated by the state or a political subdivision of the state; any blood or tissue bank where the majority of revenues are received from the sale of blood or tissue and where blood, plasma, or tissue is procured from volunteer donors and donated, processed, stored, or distributed on a nonprofit basis; and any clinical laboratory which is wholly owned and operated by physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice, and at which no clinical laboratory~~



805502

576-04082-17

1681 ~~work is performed for patients referred by any health care~~
1682 ~~provider who is not a member of that same group practice.~~

1683 Section 61. Subsection (4) of section 408.20, Florida
1684 Statutes, is amended to read:

1685 408.20 Assessments; Health Care Trust Fund.—

1686 (4) Hospitals operated by a state agency ~~the Department of~~
1687 ~~Children and Families, the Department of Health, or the~~
1688 ~~Department of Corrections~~ are exempt from the assessments
1689 required under this section.

1690 Section 62. Section 408.7056, Florida Statutes, is
1691 repealed.

1692 Section 63. Subsections (10), (11), and (27) of section
1693 408.802, Florida Statutes, are amended to read:

1694 408.802 Applicability.—The provisions of this part apply to
1695 the provision of services that require licensure as defined in
1696 this part and to the following entities licensed, registered, or
1697 certified by the agency, as described in chapters 112, 383, 390,
1698 394, 395, 400, 429, 440, 483, and 765:

1699 ~~(10) Mobile surgical facilities, as provided under part I~~
1700 ~~of chapter 395.~~

1701 ~~(11) Health care risk managers, as provided under part I of~~
1702 ~~chapter 395.~~

1703 ~~(27) Clinical laboratories, as provided under part I of~~
1704 ~~chapter 483.~~

1705 Section 64. Subsections (12) and (13) of section 408.803,
1706 Florida Statutes, are renumbered as subsections (13) and (14),
1707 respectively, and a new subsection (12) is added to that
1708 section, to read:

1709 408.803 Definitions.—As used in this part, the term:



805502

576-04082-17

1710 (12) "Relative" means an individual who is the father,
1711 mother, stepfather, stepmother, son, daughter, brother, sister,
1712 grandmother, grandfather, great-grandmother, great-grandfather,
1713 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1714 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1715 daughter-in-law, brother-in-law, sister-in-law, stepson,
1716 stepdaughter, stepbrother, stepsister, half-brother, or half-
1717 sister of a patient or client.

1718 Section 65. Paragraph (c) of subsection (7) of section
1719 408.806, Florida Statutes, is amended, and subsection (9) is
1720 added to that section, to read:

1721 408.806 License application process.—

1722 (7)

1723 (c) If an inspection is required by the authorizing statute
1724 for a license application other than an initial application, the
1725 inspection must be unannounced. This paragraph does not apply to
1726 inspections required pursuant to ss. 383.324, 395.0161(4) and,
1727 429.67(6), and 483.061(2).

1728 (9) A licensee that holds a license for multiple providers
1729 licensed by the agency may request that all related license
1730 expiration dates be aligned. Upon such request, the agency may
1731 issue a license for an abbreviated licensure period with a
1732 prorated licensure fee.

1733 Section 66. Paragraphs (d) and (e) of subsection (1) of
1734 section 408.809, Florida Statutes, are amended to read:

1735 408.809 Background screening; prohibited offenses.—

1736 (1) Level 2 background screening pursuant to chapter 435
1737 must be conducted through the agency on each of the following
1738 persons, who are considered employees for the purposes of



805502

576-04082-17

conducting screening under chapter 435:

(d) Any person who is a controlling interest ~~if the agency has reason to believe that such person has been convicted of any offense prohibited by s. 435.04. For each controlling interest who has been convicted of any such offense, the licensee shall submit to the agency a description and explanation of the conviction at the time of license application.~~

(e) Any person, as required by authorizing statutes, seeking employment with a licensee or provider who is expected to, or whose responsibilities may require him or her to, provide personal care or services directly to clients or have access to client funds, personal property, or living areas; and any person, as required by authorizing statutes, contracting with a licensee or provider whose responsibilities require him or her to provide personal care or personal services directly to clients, or contracting with a licensee or provider to work 20 hours a week or more who will have access to client funds, personal property, or living areas. Evidence of contractor screening may be retained by the contractor's employer or the licensee.

Section 67. Subsection (8) of section 408.810, Florida Statutes, is amended, and subsections (11), (12), and (13) are added to that section, to read:

408.810 Minimum licensure requirements.—In addition to the licensure requirements specified in this part, authorizing statutes, and applicable rules, each applicant and licensee must comply with the requirements of this section in order to obtain and maintain a license.

(8) Upon application for initial licensure or change of



805502

576-04082-17

ownership licensure, the applicant shall furnish satisfactory proof of the applicant's financial ability to operate in accordance with the requirements of this part, authorizing statutes, and applicable rules. The agency shall establish standards for this purpose, including information concerning the applicant's controlling interests. The agency shall also establish documentation requirements, to be completed by each applicant, that show anticipated provider revenues and expenditures, the basis for financing the anticipated cash-flow requirements of the provider, and an applicant's access to contingency financing. A current certificate of authority, pursuant to chapter 651, may be provided as proof of financial ability to operate. The agency may require a licensee to provide proof of financial ability to operate at any time if there is evidence of financial instability, including, but not limited to, unpaid expenses necessary for the basic operations of the provider. An applicant applying for change of ownership licensure is exempt from furnishing proof of financial ability to operate if the provider has been licensed for at least 5 years, and:

(a) The ownership change is a result of a corporate reorganization under which the controlling interest is unchanged and the applicant submits organizational charts that represent the current and proposed structure of the reorganized corporation; or

(b) The ownership change is due solely to the death of a person holding a controlling interest, and the surviving controlling interests continue to hold at least 51 percent of ownership after the change of ownership.



805502

576-04082-17

1797 (11) The agency may adopt rules that govern the
1798 circumstances under which a controlling interest, an
1799 administrator, an employee, or a contractor, or a representative
1800 thereof, who is not a relative of the client may act as an agent
1801 of a client in authorizing consent for medical treatment,
1802 assignment or benefits, and release of information. Such rules
1803 may include requirements related to disclosure, bonding,
1804 restrictions, and client protections.

1805 (12) The licensee shall ensure that no person holds any
1806 ownership interest, either directly or indirectly, regardless of
1807 ownership structure, who:

1808 (a) Has a disqualifying offense pursuant to s. 408.809; or

1809 (b) Holds or has held any ownership interest, either
1810 directly or indirectly, regardless of ownership structure, in a
1811 provider that had a license revoked or an application denied
1812 pursuant to s. 408.815.

1813 (13) If the licensee is a publicly traded corporation or is
1814 wholly owned, directly or indirectly, by a publicly traded
1815 corporation, subsection (12) does not apply to those persons
1816 whose sole relationship with the corporation is as a shareholder
1817 of publicly traded shares. As used in this subsection, a
1818 publicly traded corporation is a corporation that issues
1819 securities traded on an exchange registered with the United
1820 States Securities and Exchange Commission as a national
1821 securities exchange.

1822 Section 68. Section 408.812, Florida Statutes, is amended
1823 to read:

1824 408.812 Unlicensed activity.—

1825 (1) A person or entity may not offer or advertise services



805502

576-04082-17

1826 that require licensure as defined by this part, authorizing
1827 statutes, or applicable rules to the public without obtaining a
1828 valid license from the agency. A licenseholder may not advertise
1829 or hold out to the public that he or she holds a license for
1830 other than that for which he or she actually holds the license.

1831 (2) The operation or maintenance of an unlicensed provider
1832 or the performance of any services that require licensure
1833 without proper licensure is a violation of this part and
1834 authorizing statutes. Unlicensed activity constitutes harm that
1835 materially affects the health, safety, and welfare of clients,
1836 and constitutes abuse and neglect, as defined in s. 415.102. The
1837 agency or any state attorney may, in addition to other remedies
1838 provided in this part, bring an action for an injunction to
1839 restrain such violation, or to enjoin the future operation or
1840 maintenance of the unlicensed provider or the performance of any
1841 services in violation of this part and authorizing statutes,
1842 until compliance with this part, authorizing statutes, and
1843 agency rules has been demonstrated to the satisfaction of the
1844 agency.

1845 (3) It is unlawful for any person or entity to own,
1846 operate, or maintain an unlicensed provider. If, after receiving
1847 notification from the agency, such person or entity fails to
1848 cease operation ~~and apply for a license under this part and~~
1849 ~~authorizing statutes,~~ the person or entity ~~is shall be~~ subject
1850 to penalties as prescribed by authorizing statutes and
1851 applicable rules. Each day of ~~continued~~ operation is a separate
1852 offense.

1853 (4) Any person or entity that fails to cease operation
1854 after agency notification may be fined \$1,000 for each day of



805502

576-04082-17

noncompliance.

(5) When a controlling interest or licensee has an interest in more than one provider and fails to license a provider rendering services that require licensure, the agency may revoke all licenses, ~~and~~ impose actions under s. 408.814, and regardless of correction, impose a fine of \$1,000 per day, unless otherwise specified by authorizing statutes, against each licensee until such time as the appropriate license is obtained or the unlicensed activity ceases ~~for the unlicensed operation.~~

(6) In addition to granting injunctive relief pursuant to subsection (2), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person or entity is subject to the same actions and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules.

(7) Any person aware of the operation of an unlicensed provider must report that provider to the agency.

Section 69. Subsections (10), (11) and (26) of section 408.820, Florida Statutes, are amended, and subsections (12) through (25) and (27) and (28) are redesignated as subsections (10) through (23) and (24) and (25), respectively, to read:

408.820 Exemptions.—Except as prescribed in authorizing statutes, the following exemptions shall apply to specified requirements of this part:

~~(10) Mobile surgical facilities, as provided under part I of chapter 395, are exempt from s. 408.810(7)-(10).~~

~~(11) Health care risk managers, as provided under part I of~~



805502

576-04082-17

~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10), and 408.811.~~

~~(26) Clinical laboratories, as provided under part I of chapter 483, are exempt from s. 408.810(5)-(10).~~

Section 70. Subsection (7) of section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay for medically necessary diagnostic laboratory procedures ordered by a licensed physician or other licensed practitioner of the healing arts which are provided for a recipient in a laboratory that meets the requirements for Medicare participation and is appropriately certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder ~~licensed~~



805502

576-04082-17

1913 ~~under chapter 483, if required.~~

1914 Section 71. Subsection (10) of section 409.907, Florida
1915 Statutes, is amended to read:

1916 409.907 Medicaid provider agreements.—The agency may make
1917 payments for medical assistance and related services rendered to
1918 Medicaid recipients only to an individual or entity who has a
1919 provider agreement in effect with the agency, who is performing
1920 services or supplying goods in accordance with federal, state,
1921 and local law, and who agrees that no person shall, on the
1922 grounds of handicap, race, color, or national origin, or for any
1923 other reason, be subjected to discrimination under any program
1924 or activity for which the provider receives payment from the
1925 agency.

1926 (10) The agency may consider whether the provider, or any
1927 officer, director, agent, managing employee, or affiliated
1928 person, or any partner or shareholder having an ownership
1929 interest equal to 5 percent or greater in the provider if the
1930 provider is a corporation, partnership, or other business
1931 entity, has:

1932 (a) Made a false representation or omission of any material
1933 fact in making the application, including the submission of an
1934 application that conceals the controlling or ownership interest
1935 of any officer, director, agent, managing employee, affiliated
1936 person, or partner or shareholder who may not be eligible to
1937 participate;

1938 (b) Been or is currently excluded, suspended, terminated
1939 from, or has involuntarily withdrawn from participation in,
1940 Florida's Medicaid program or any other state's Medicaid
1941 program, or from participation in any other governmental or



805502

576-04082-17

1942 private health care or health insurance program;

1943 ~~(e) Been convicted of a criminal offense relating to the~~
1944 ~~delivery of any goods or services under Medicaid or Medicare or~~
1945 ~~any other public or private health care or health insurance~~
1946 ~~program including the performance of management or~~
1947 ~~administrative services relating to the delivery of goods or~~
1948 ~~services under any such program;~~

1949 ~~(d) Been convicted under federal or state law of a criminal~~
1950 ~~offense related to the neglect or abuse of a patient in~~
1951 ~~connection with the delivery of any health care goods or~~
1952 ~~services;~~

1953 ~~(e) Been convicted under federal or state law of a criminal~~
1954 ~~offense relating to the unlawful manufacture, distribution,~~
1955 ~~prescription, or dispensing of a controlled substance;~~

1956 ~~(f) Been convicted of any criminal offense relating to~~
1957 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~
1958 ~~or other financial misconduct;~~

1959 ~~(g) Been convicted under federal or state law of a crime~~
1960 ~~punishable by imprisonment of a year or more which involves~~
1961 ~~moral turpitude;~~

1962 ~~(h) Been convicted in connection with the interference or~~
1963 ~~obstruction of any investigation into any criminal offense~~
1964 ~~listed in this subsection;~~

1965 ~~(i) Been found to have violated federal or state laws,~~
1966 ~~rules, or regulations governing Florida's Medicaid program or~~
1967 ~~any other state's Medicaid program, the Medicare program, or any~~
1968 ~~other publicly funded federal or state health care or health~~
1969 ~~insurance program, and been sanctioned accordingly;~~

1970 (c) ~~(j)~~ Been previously found by a licensing, certifying, or



805502

576-04082-17

professional standards board or agency to have violated the standards or conditions relating to licensure or certification or the quality of services provided; or

(d) ~~(k)~~ Failed to pay any fine or overpayment properly assessed under the Medicaid program in which no appeal is pending or after resolution of the proceeding by stipulation or agreement, unless the agency has issued a specific letter of forgiveness or has approved a repayment schedule to which the provider agrees to adhere.

Section 72. Subsection (6) of section 409.9116, Florida Statutes, is amended to read:

409.9116 Disproportionate share/financial assistance program for rural hospitals.—In addition to the payments made under s. 409.911, the Agency for Health Care Administration shall administer a federally matched disproportionate share program and a state-funded financial assistance program for statutory rural hospitals. The agency shall make disproportionate share payments to statutory rural hospitals that qualify for such payments and financial assistance payments to statutory rural hospitals that do not qualify for disproportionate share payments. The disproportionate share program payments shall be limited by and conform with federal requirements. Funds shall be distributed quarterly in each fiscal year for which an appropriation is made. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(6) This section applies only to hospitals that were



805502

576-04082-17

defined as statutory rural hospitals, or their successor-in-interest hospital, prior to January 1, 2001. Any additional hospital that is defined as a statutory rural hospital, or its successor-in-interest hospital, on or after January 1, 2001, is not eligible for programs under this section unless additional funds are appropriated each fiscal year specifically to the rural hospital disproportionate share and financial assistance programs in an amount necessary to prevent any hospital, or its successor-in-interest hospital, eligible for the programs prior to January 1, 2001, from incurring a reduction in payments because of the eligibility of an additional hospital to participate in the programs. A hospital, or its successor-in-interest hospital, which received funds pursuant to this section before January 1, 2001, and which qualifies under s. 395.602(2)(b) ~~s. 395.602(2)(c)~~, shall be included in the programs under this section and is not required to seek additional appropriations under this subsection.

Section 73. Paragraphs (a) and (b) of subsection (1) of section 409.975, Florida Statutes, are amended to read:

409.975 Managed care plan accountability.—In addition to the requirements of s. 409.967, plans and providers participating in the managed medical assistance program shall comply with the requirements of this section.

(1) PROVIDER NETWORKS.—Managed care plans must develop and maintain provider networks that meet the medical needs of their enrollees in accordance with standards established pursuant to s. 409.967(2)(c). Except as provided in this section, managed care plans may limit the providers in their networks based on credentials, quality indicators, and price.



805502

576-04082-17

(a) Plans must include all providers in the region that are classified by the agency as essential Medicaid providers, unless the agency approves, in writing, an alternative arrangement for securing the types of services offered by the essential providers. Providers are essential for serving Medicaid enrollees if they offer services that are not available from any other provider within a reasonable access standard, or if they provided a substantial share of the total units of a particular service used by Medicaid patients within the region during the last 3 years and the combined capacity of other service providers in the region is insufficient to meet the total needs of the Medicaid patients. The agency may not classify physicians and other practitioners as essential providers. The agency, at a minimum, shall determine which providers in the following categories are essential Medicaid providers:

1. Federally qualified health centers.
2. Statutory teaching hospitals as defined in s. 408.07(44) ~~s. 408.07(45)~~.
3. Hospitals that are trauma centers as defined in s. 395.4001(14).
4. Hospitals located at least 25 miles from any other hospital with similar services.

Managed care plans that have not contracted with all essential providers in the region as of the first date of recipient enrollment, or with whom an essential provider has terminated its contract, must negotiate in good faith with such essential providers for 1 year or until an agreement is reached, whichever is first. Payments for services rendered by a nonparticipating



805502

576-04082-17

essential provider shall be made at the applicable Medicaid rate as of the first day of the contract between the agency and the plan. A rate schedule for all essential providers shall be attached to the contract between the agency and the plan. After 1 year, managed care plans that are unable to contract with essential providers shall notify the agency and propose an alternative arrangement for securing the essential services for Medicaid enrollees. The arrangement must rely on contracts with other participating providers, regardless of whether those providers are located within the same region as the nonparticipating essential service provider. If the alternative arrangement is approved by the agency, payments to nonparticipating essential providers after the date of the agency's approval shall equal 90 percent of the applicable Medicaid rate. Except for payment for emergency services, if the alternative arrangement is not approved by the agency, payment to nonparticipating essential providers shall equal 110 percent of the applicable Medicaid rate.

(b) Certain providers are statewide resources and essential providers for all managed care plans in all regions. All managed care plans must include these essential providers in their networks. Statewide essential providers include:

1. Faculty plans of Florida medical schools.
2. Regional perinatal intensive care centers as defined in s. 383.16(2).
3. Hospitals licensed as specialty children's hospitals as defined in s. 395.002(27) ~~s. 395.002(28)~~.
4. Accredited and integrated systems serving medically complex children which comprise separately licensed, but



805502

576-04082-17

commonly owned, health care providers delivering at least the following services: medical group home, in-home and outpatient nursing care and therapies, pharmacy services, durable medical equipment, and Prescribed Pediatric Extended Care.

Managed care plans that have not contracted with all statewide essential providers in all regions as of the first date of recipient enrollment must continue to negotiate in good faith. Payments to physicians on the faculty of nonparticipating Florida medical schools shall be made at the applicable Medicaid rate. Payments for services rendered by regional perinatal intensive care centers shall be made at the applicable Medicaid rate as of the first day of the contract between the agency and the plan. Except for payments for emergency services, payments to nonparticipating specialty children's hospitals shall equal the highest rate established by contract between that provider and any other Medicaid managed care plan.

Section 74. Subsections (5) and (17) of section 429.02, Florida Statutes, are amended to read:

429.02 Definitions.—When used in this part, the term:

(5) "Assisted living facility" means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, regardless of whether operated for profit or not, which, undertakes through its ownership or management, provides to ~~provide~~ housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

(17) "Personal services" means direct physical assistance



805502

576-04082-17

with or supervision of the activities of daily living, ~~and~~ the self-administration of medication, ~~or~~ ~~and~~ other similar services which the department may define by rule. ~~The term may "Personal services" shall not be construed to mean the provision of~~ medical, nursing, dental, or mental health services.

Section 75. Paragraphs (b) and (d) of subsection (2) of section 429.04, Florida Statutes, are amended, and subsection (3) is added that section, to read:

429.04 Facilities to be licensed; exemptions.—

(2) The following are exempt from licensure under this part:

(b) Any facility or part of a facility licensed by the Agency for Persons with Disabilities under chapter 393, a mental health facility licensed under ~~or~~ ~~chapter 394, a hospital licensed under chapter 395, a nursing home licensed under part II of chapter 400, an inpatient hospice licensed under part IV of chapter 400, a home for special services licensed under part V of chapter 400, an intermediate care facility licensed under part VIII of chapter 400, or a transitional living facility licensed under part XI of chapter 400.~~

(d) Any person who provides housing, meals, and one or more personal services on a 24-hour basis in the person's own home to not more than two adults who do not receive optional state supplementation. The person who provides the housing, meals, and personal services must own or rent the home and must have established the home as his or her permanent residence. For purposes of this paragraph, any person holding a homestead exemption at an address other than that at which the person asserts this exemption is presumed to not have established



805502

576-04082-17

2145 ~~permanent residence reside therein. This exemption does not~~
2146 ~~apply to a person or entity that previously held a license~~
2147 ~~issued by the agency which was revoked or for which renewal was~~
2148 ~~denied by final order of the agency, or when the person or~~
2149 ~~entity voluntarily relinquished the license during agency~~
2150 ~~enforcement proceedings.~~

2151 (3) Upon agency investigation of unlicensed activity, any
2152 person or entity that claims that it is exempt under this
2153 section must provide documentation substantiating entitlement to
2154 the exemption.

2155 Section 76. Paragraphs (b) and (d) of subsection (1) of
2156 section 429.08, Florida Statutes, are amended to read:

2157 429.08 Unlicensed facilities; referral of person for
2158 residency to unlicensed facility; penalties.-

2159 (1)

2160 ~~(b) Except as provided under paragraph (d),~~ Any person who
2161 ~~owns, rents, or otherwise maintains a building or property that~~
2162 ~~operates, or maintains an unlicensed assisted living facility~~
2163 ~~commits a felony of the third degree, punishable as provided in~~
2164 ~~s. 775.082, s. 775.083, or s. 775.084. Each day of continued~~
2165 ~~operation is a separate offense.~~

2166 (d) In addition to the requirements of s. 408.812, any
2167 person who owns, operates, or maintains an unlicensed assisted
2168 living facility after receiving notice from the agency due to a
2169 change in this part or a modification in rule within 6 months
2170 after the effective date of such change and who, within 10
2171 working days after receiving notification from the agency, fails
2172 to cease operation or apply for a license under this part
2173 commits a felony of the third degree, punishable as provided in



805502

576-04082-17

2174 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2175 operation is a separate offense.

2176 Section 77. Subsection(7) of section 429.19, Florida
2177 Statutes, is amended to read:

2178 429.19 Violations; imposition of administrative fines;
2179 grounds.-

2180 (7) In addition to any administrative fines imposed, the
2181 agency may assess a survey fee, equal to the lesser of one half
2182 of the facility's biennial license and bed fee or \$500, to cover
2183 the cost of conducting initial complaint investigations that
2184 result in the finding of a violation that was the subject of the
2185 complaint or monitoring visits conducted ~~under s. 429.28(3)(c)~~
2186 to verify the correction of the violations.

2187 Section 78. Section 429.176, Florida Statutes, is amended
2188 to read:

2189 429.176 Notice of change of administrator.-If, during the
2190 period for which a license is issued, the owner changes
2191 administrators, the owner must notify the agency of the change
2192 within 10 days and provide documentation within 90 days that the
2193 new administrator has completed the applicable core educational
2194 requirements under s. 429.52. A facility may not be operated for
2195 more than 120 consecutive days without an administrator who has
2196 completed the core educational requirements.

2197 Section 79. Subsection (2) of section 429.24, Florida
2198 Statutes, is amended to read:

2199 429.24 Contracts.-

2200 (2) Each contract must contain express provisions
2201 specifically setting forth the services and accommodations to be
2202 provided by the facility; the rates or charges; provision for at



805502

576-04082-17

2203 least 30 days' written notice of a rate increase; the rights,
2204 duties, and obligations of the residents, other than those
2205 specified in s. 429.28; and other matters that the parties deem
2206 appropriate. A new service or accommodation amended to, or
2207 implemented in, a resident's contract for which the resident was
2208 not previously charged, does not require a 30-day written notice
2209 of a rate increase. Whenever money is deposited or advanced by a
2210 resident in a contract as security for performance of the
2211 contract agreement or as advance rent for other than the next
2212 immediate rental period:

2213 (a) Such funds shall be deposited in a banking institution
2214 in this state that is located, if possible, in the same
2215 community in which the facility is located; shall be kept
2216 separate from the funds and property of the facility; may not be
2217 represented as part of the assets of the facility on financial
2218 statements; and shall be used, or otherwise expended, only for
2219 the account of the resident.

2220 (b) The licensee shall, within 30 days of receipt of
2221 advance rent or a security deposit, notify the resident or
2222 residents in writing of the manner in which the licensee is
2223 holding the advance rent or security deposit and state the name
2224 and address of the depository where the moneys are being held.
2225 The licensee shall notify residents of the facility's policy on
2226 advance deposits.

2227 Section 80. Paragraph (b) of subsection (3) of section
2228 429.256, Florida Statutes, is amended to read:

2229 429.256 Assistance with self-administration of medication.-

2230 (3) Assistance with self-administration of medication
2231 includes:



805502

576-04082-17

2232 (b) In the presence of the resident, reading aloud the
2233 name, medication, and dosage indicated on the label, opening the
2234 container, removing a prescribed amount of medication from the
2235 container, and closing the container.

2236 Section 81. Paragraphs (e) and (j) of subsection (1) and
2237 paragraphs (c), (d), and (e) of subsection (3) of section
2238 429.28, Florida Statutes, are amended to read:

2239 429.28 Resident bill of rights.-

2240 (1) No resident of a facility shall be deprived of any
2241 civil or legal rights, benefits, or privileges guaranteed by
2242 law, the Constitution of the State of Florida, or the
2243 Constitution of the United States as a resident of a facility.
2244 Every resident of a facility shall have the right to:

2245 (e) Freedom to participate in and benefit from community
2246 services and activities and to pursue ~~achieve~~ the highest
2247 possible level of independence, autonomy, and interaction within
2248 the community.

2249 (j) Assistance with obtaining access to adequate and
2250 appropriate health care. For purposes of this paragraph, the
2251 term "adequate and appropriate health care" means the management
2252 of medications, assistance in making appointments for health
2253 care services, the provision of or arrangement of transportation
2254 to health care appointments, and the performance of health care
2255 services in accordance with s. 429.255 which are consistent with
2256 established and recognized standards within the community.

2257 (3)

2258 ~~(e) During any calendar year in which no survey is~~
2259 ~~conducted, the agency shall conduct at least one monitoring~~
2260 ~~visit of each facility cited in the previous year for a class I~~



805502

576-04082-17

2261 ~~or class II violation, or more than three uncorrected class III~~
2262 ~~violations.~~

2263 ~~(d) The agency may conduct periodic followup inspections as~~
2264 ~~necessary to monitor the compliance of facilities with a history~~
2265 ~~of any class I, class II, or class III violations that threaten~~
2266 ~~the health, safety, or security of residents.~~

2267 ~~(e) The agency may conduct complaint investigations as~~
2268 ~~warranted to investigate any allegations of noncompliance with~~
2269 ~~requirements required under this part or rules adopted under~~
2270 ~~this part.~~

2271 Section 82. Subsection (1) of section 429.294, Florida
2272 Statutes, is amended to read:

2273 429.294 Availability of facility records for investigation
2274 of resident's rights violations and defenses; penalty.—

2275 (1) Failure to provide complete copies of a resident's
2276 records, including, but not limited to, all medical records and
2277 the resident's chart, within the control or possession of the
2278 facility ~~within 10 days~~, in accordance with the provisions of s.
2279 400.145, shall constitute evidence of failure of that party to
2280 comply with good faith discovery requirements and shall waive
2281 the good faith certificate and presuit notice requirements under
2282 this part by the requesting party.

2283 Section 83. Subsection (2) of section 429.34, Florida
2284 Statutes, is amended to read:

2285 429.34 Right of entry and inspection.—

2286 (2)(a) In addition to the requirements of s. 408.811, the
2287 agency may inspect and investigate facilities as necessary to
2288 determine compliance with this part, part II of chapter 408, and
2289 rules adopted thereunder. ~~The agency shall inspect each licensed~~



805502

576-04082-17

2290 ~~assisted living facility at least once every 24 months to~~
2291 ~~determine compliance with this chapter and related rules.~~ If an
2292 assisted living facility is cited for a class I violation or
2293 three or more class II violations arising from separate surveys
2294 within a 60-day period or due to unrelated circumstances during
2295 the same survey, the agency must conduct an additional licensure
2296 inspection within 6 months.

2297 (b) During any calendar year in which a survey is not
2298 conducted, the agency may conduct at least one monitoring visit
2299 of each facility cited in the previous year for a class I or
2300 class II violation, or more than three uncorrected class III
2301 violations.

2302 Section 84. Subsection (4) of section 429.52, Florida
2303 Statutes, is amended to read:

2304 429.52 Staff training and educational programs; core
2305 educational requirement.—

2306 (4) Effective January 1, 2004, a new facility administrator
2307 must complete the required training and education, including the
2308 competency test, within 90 days of the date of employment a
2309 ~~reasonable time after being employed~~ as an administrator, ~~as~~
2310 ~~determined by the department.~~ Failure to do so is a violation of
2311 this part and subjects the violator to an administrative fine as
2312 prescribed in s. 429.19. Administrators licensed in accordance
2313 with part II of chapter 468 are exempt from this requirement.
2314 Other licensed professionals may be exempted, as determined by
2315 the department by rule.

2316 Section 85. Subsection (3) of section 435.04, Florida
2317 Statutes, is amended, and subsection (4) is added to that
2318 section, to read:



805502

576-04082-17

2319 435.04 Level 2 screening standards.—
2320 (3) The security background investigations under this
2321 section must ensure that no person subject to this section has
2322 been arrested for and is awaiting final disposition of, been
2323 found guilty of, regardless of adjudication, or entered a plea
2324 of nolo contendere or guilty to, any offense that constitutes
2325 domestic violence as defined in s. 741.28, whether such act was
2326 committed in this state or in another jurisdiction.
2327 (4) For the purpose of screening applicability to
2328 participate in the Medicaid program, the security background
2329 investigations under this section must ensure that a person
2330 subject to screening under this section has not been arrested
2331 for and is not awaiting final disposition of; has not been found
2332 guilty of, regardless of adjudication, or entered a plea of nolo
2333 contendere or guilty to; and has not been adjudicated delinquent
2334 and the record sealed or expunged for, any of the following
2335 offenses:
2336 (a) Federal law or a law in any state which creates a
2337 criminal offense relating to:
2338 1. The delivery of any goods or services under Medicaid or
2339 Medicare or any other public or private health care or health
2340 insurance program, including the performance of management or
2341 administrative services relating to the delivery of goods or
2342 services under any such program;
2343 2. Neglect or abuse of a patient in connection with the
2344 delivery of any health care good or service;
2345 3. Unlawful manufacture, distribution, prescription, or
2346 dispensing of a controlled substance;
2347 4. Fraud, theft, embezzlement, breach of fiduciary



805502

576-04082-17

2348 responsibility, or other financial misconduct;
2349 5. Moral turpitude, if punishable by imprisonment of a year
2350 or more;
2351 6. Section 817.569, criminal use of a public record or
2352 information contained in a public record;
2353 7. Section 838.016, unlawful compensation or reward for
2354 official behavior;
2355 8. Section 838.021, corruption by threat against a public
2356 servant;
2357 9. Section 838.022, official misconduct;
2358 10. Section 838.22, bid tampering;
2359 11. Section 839.13, falsifying records;
2360 12. Section 839.26, misuse of confidential information; or
2361 13. Interfering with or obstructing an investigation into
2362 any criminal offense identified in this subsection.
2363 (b) Violation of a federal or state law, rule, or
2364 regulation governing the Florida Medicaid program or any other
2365 state Medicaid program, the Medicare program, or any other
2366 publicly funded federal or state health care or health insurance
2367 program, and has been sanctioned accordingly.
2368 Section 86. Paragraph (a) of subsection (2) of section
2369 435.12, Florida Statutes, is amended to read:
2370 435.12 Care Provider Background Screening Clearinghouse.—
2371 (2) (a) To ensure that the information in the clearinghouse
2372 is current, the fingerprints of an employee required to be
2373 screened by a specified agency and included in the clearinghouse
2374 must be:
2375 1. Retained by the Department of Law Enforcement pursuant
2376 to s. 943.05(2) (g) and (h) and (3), and the Department of Law



805502

576-04082-17

2377 Enforcement must report the results of searching those
2378 fingerprints against state incoming arrest fingerprint
2379 submissions to the Agency for Health Care Administration for
2380 inclusion in the clearinghouse.

2381 2. Retained by the Federal Bureau of Investigation in the
2382 national retained print arrest notification program as soon as
2383 the Department of Law Enforcement begins participation in such
2384 program. Arrest prints will be searched against retained prints
2385 at the Federal Bureau of Investigation and notification of
2386 arrests will be forwarded to the Florida Department of Law
2387 Enforcement and reported to the Agency for Health Care
2388 Administration for inclusion in the clearinghouse.

2389 3. Resubmitted for a Federal Bureau of Investigation
2390 national criminal history check every 5 years until such time as
2391 the fingerprints are retained by the Federal Bureau of
2392 Investigation.

2393 4. Subject to retention on a 5-year renewal basis with fees
2394 collected at the time of initial submission or resubmission of
2395 fingerprints.

2396 a. A person who passed a level 2 screening under s. 435.04
2397 after December 31, 2012, by a specified agency may extend the
2398 screening renewal period until January 1, 2020, unless the
2399 Department of Law Enforcement begins participation in the
2400 national retained print arrest notification program before that
2401 date.

2402 b. The retention of fingerprints by the Department of Law
2403 Enforcement pursuant to s. 943.05(2)(g) and (h) and (3) is
2404 extended until the earlier of January 1, 2020, or the date that
2405 the Department of Law Enforcement begins participation in the



805502

576-04082-17

2406 national retained print arrest notification program.

2407 5. Submitted with a photograph of the person taken at the
2408 time the fingerprints are submitted.

2409 Section 87. Subsection (4) of section 456.001, Florida
2410 Statutes, is amended to read:

2411 456.001 Definitions.—As used in this chapter, the term:

2412 (4) "Health care practitioner" means any person licensed
2413 under chapter 457; chapter 458; chapter 459; chapter 460;
2414 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2415 chapter 466; chapter 467; part I, part II, part III, part V,
2416 part X, part XIII, or part XIV of chapter 468; chapter 478;
2417 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
2418 chapter 484; chapter 486; chapter 490; or chapter 491.

2419 Section 88. Paragraph (i) of subsection (2) of section
2420 456.057, Florida Statutes, is amended to read:

2421 456.057 Ownership and control of patient records; report or
2422 copies of records to be furnished; disclosure of information.—

2423 (2) As used in this section, the terms "records owner,"
2424 "health care practitioner," and "health care practitioner's
2425 employer" do not include any of the following persons or
2426 entities; furthermore, the following persons or entities are not
2427 authorized to acquire or own medical records, but are authorized
2428 under the confidentiality and disclosure requirements of this
2429 section to maintain those documents required by the part or
2430 chapter under which they are licensed or regulated:

2431 (i) Medical physicists licensed under part III ~~IV~~ of
2432 chapter 483.

2433 Section 89. Subsection (2) of section 458.307, Florida
2434 Statutes, is amended to read:



805502

576-04082-17

2435 458.307 Board of Medicine.—

2436 (2) Twelve members of the board must be licensed physicians
2437 in good standing in this state who are residents of the state
2438 and who have been engaged in the active practice or teaching of
2439 medicine for at least 4 years immediately preceding their
2440 appointment. One of the physicians must be on the full-time
2441 faculty of a medical school in this state, and one of the
2442 physicians must be in private practice and on the full-time
2443 staff of a statutory teaching hospital in this state as defined
2444 in s. 408.07. At least one of the physicians must be a graduate
2445 of a foreign medical school. The remaining three members must be
2446 residents of the state who are not, and never have been,
2447 licensed health care practitioners. One member must be a health
2448 care risk manager licensed under s. 395.10974. At least one
2449 member of the board must be 60 years of age or older.

2450 Section 90. Subsection (1) of section 458.345, Florida
2451 Statutes, is amended to read:

2452 458.345 Registration of resident physicians, interns, and
2453 fellows; list of hospital employees; prescribing of medicinal
2454 drugs; penalty.—

2455 (1) Any person desiring to practice as a resident
2456 physician, assistant resident physician, house physician,
2457 intern, or fellow in fellowship training which leads to
2458 subspecialty board certification in this state, or any person
2459 desiring to practice as a resident physician, assistant resident
2460 physician, house physician, intern, or fellow in fellowship
2461 training in a teaching hospital in this state as defined in s.
2462 408.07(44) s. 408.07(45) or s. 395.805(2), who does not hold a
2463 valid, active license issued under this chapter shall apply to



805502

576-04082-17

2464 the department to be registered and shall remit a fee not to
2465 exceed \$300 as set by the board. The department shall register
2466 any applicant the board certifies has met the following
2467 requirements:

2468 (a) Is at least 21 years of age.

2469 (b) Has not committed any act or offense within or without
2470 the state which would constitute the basis for refusal to
2471 certify an application for licensure pursuant to s. 458.331.

2472 (c) Is a graduate of a medical school or college as
2473 specified in s. 458.311(1)(f).

2474 Section 91. Subsection (1) of s. 459.021, Florida Statutes,
2475 is amended to read:

2476 459.021 Registration of resident physicians, interns, and
2477 fellows; list of hospital employees; penalty.—

2478 (1) Any person who holds a degree of Doctor of Osteopathic
2479 Medicine from a college of osteopathic medicine recognized and
2480 approved by the American Osteopathic Association who desires to
2481 practice as a resident physician, intern, or fellow in
2482 fellowship training which leads to subspecialty board
2483 certification in this state, or any person desiring to practice
2484 as a resident physician, intern, or fellow in fellowship
2485 training in a teaching hospital in this state as defined in s.
2486 408.07(44) s. 408.07(45) or s. 395.805(2), who does not hold an
2487 active license issued under this chapter shall apply to the
2488 department to be registered, on an application provided by the
2489 department, before commencing such a training program and shall
2490 remit a fee not to exceed \$300 as set by the board.

2491 Section 92. Part I of chapter 483, Florida Statutes,
2492 consisting of sections 483.011, 483.021, 483.031, 483.035,



805502

576-04082-17

2493 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
2494 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
2495 is repealed.

2496 Section 93. Section 483.294, Florida Statutes, is amended
2497 to read:

2498 483.294 Inspection of centers.—In accordance with s.
2499 408.811, the agency shall, ~~at least once annually,~~ inspect the
2500 premises and operations of all centers subject to licensure
2501 under this part.

2502 Section 94. Subsections (3) and (5) of section 483.801,
2503 Florida Statutes, are amended, and subsection (6) is added to
2504 that section, to read:

2505 483.801 Exemptions.—This part applies to all clinical
2506 laboratories and clinical laboratory personnel within this
2507 state, except:

2508 (3) Persons engaged in testing performed by laboratories
2509 that are wholly owned and operated by one or more practitioners
2510 licensed under chapter 458, chapter 459, chapter 460, chapter
2511 461, chapter 462, chapter 463, or chapter 466 who practice in
2512 the same group practice, and in which no clinical laboratory
2513 work is performed for patients referred by any health care
2514 provider who is not a member of that group practice regulated
2515 under s. 483.035(1) or exempt from regulation under s.
2516 483.031(2).

2517 (5) Advanced registered nurse practitioners licensed under
2518 part I of chapter 464 who perform provider-performed microscopy
2519 procedures (PPMP) in a an-exclusive-use laboratory setting
2520 pursuant to subsection (3).

2521 (6) Persons performing laboratory testing within a



805502

576-04082-17

2522 physician office practice for patients referred by a health care
2523 provider who is a member of the same physician office practice,
2524 if the laboratory or entity operating the laboratory within a
2525 physician office practice is under common ownership, directly or
2526 indirectly, with an entity licensed pursuant to chapter 395.

2527 Section 95. Subsections (2), (3), and (4) of section
2528 483.803, Florida Statutes, are amended to read:

2529 483.803 Definitions.—As used in this part, the term:

2530 (2) "Clinical laboratory" means the physical location in
2531 which one or more of the following services are performed to
2532 provide information or materials for use in the diagnosis,
2533 prevention, or treatment of a disease or the identification or
2534 assessment of a medical or physical condition:

2535 (a) Clinical laboratory services, which entail the
2536 examination of fluids or other materials taken from the human
2537 body.

2538 (b) Anatomic laboratory services, which entail the
2539 examination of tissue taken from the human body.

2540 (c) Cytology laboratory services, which entail the
2541 examination of cells from individual tissues or fluid taken from
2542 the human body a clinical laboratory as defined in s. 483.041.

2543 (3) "Clinical laboratory examination" means a procedure
2544 performed to deliver the services identified in subsection (2),
2545 including the oversight or interpretation of such services
2546 clinical laboratory examination as defined in s. 483.041.

2547 (4) "Clinical laboratory personnel" includes a clinical
2548 laboratory director, supervisor, technologist, blood gas
2549 analyst, or technician who performs or is responsible for
2550 laboratory test procedures, but the term does not include



805502

576-04082-17

2551 trainees, persons who perform screening for blood banks or
2552 plasmapheresis centers, phlebotomists, or persons employed by a
2553 clinical laboratory to perform manual pretesting duties or
2554 clerical, personnel, or other administrative responsibilities,
2555 ~~or persons engaged in testing performed by laboratories~~
2556 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
2557 ~~483.031(2).~~

2558 Section 96. Section 483.813, Florida Statutes, is amended
2559 to read:

2560 483.813 Clinical laboratory personnel license.—A person may
2561 not conduct a clinical laboratory examination or report the
2562 results of such examination unless such person is licensed under
2563 this part to perform such procedures. However, this provision
2564 does not apply to any practitioner of the healing arts
2565 authorized to practice in this state ~~or to persons engaged in~~
2566 ~~testing performed by laboratories regulated under s. 483.035(1)~~
2567 ~~or exempt from regulation under s. 483.031(2).~~ The department
2568 may grant a temporary license to any candidate it deems properly
2569 qualified, for a period not to exceed 1 year.

2570 Section 97. Subsection (2) of section 483.823, Florida
2571 Statutes, is amended to read:

2572 483.823 Qualifications of clinical laboratory personnel.—

2573 (2) Personnel qualifications may require appropriate
2574 education, training, or experience or the passing of an
2575 examination in appropriate subjects or any combination of these,
2576 but ~~a~~ a practitioner of the healing arts licensed to practice
2577 in this state is not required to obtain any license ~~under this~~
2578 ~~part~~ part or to pay any fee under this part ~~hereunder except the fee~~
2579 ~~required for clinical laboratory licensure.~~



805502

576-04082-17

2580 Section 98. Paragraph (c) of subsection (7), paragraph (c)
2581 of subsection (8), and paragraph (c) of subsection (9) of
2582 section 491.003, Florida Statutes, are amended to read:

2583 491.003 Definitions.—As used in this chapter:

2584 (7) The "practice of clinical social work" is defined as
2585 the use of scientific and applied knowledge, theories, and
2586 methods for the purpose of describing, preventing, evaluating,
2587 and treating individual, couple, marital, family, or group
2588 behavior, based on the person-in-situation perspective of
2589 psychosocial development, normal and abnormal behavior,
2590 psychopathology, unconscious motivation, interpersonal
2591 relationships, environmental stress, differential assessment,
2592 differential planning, and data gathering. The purpose of such
2593 services is the prevention and treatment of undesired behavior
2594 and enhancement of mental health. The practice of clinical
2595 social work includes methods of a psychological nature used to
2596 evaluate, assess, diagnose, treat, and prevent emotional and
2597 mental disorders and dysfunctions (whether cognitive, affective,
2598 or behavioral), sexual dysfunction, behavioral disorders,
2599 alcoholism, and substance abuse. The practice of clinical social
2600 work includes, but is not limited to, psychotherapy,
2601 hypnotherapy, and sex therapy. The practice of clinical social
2602 work also includes counseling, behavior modification,
2603 consultation, client-centered advocacy, crisis intervention, and
2604 the provision of needed information and education to clients,
2605 when using methods of a psychological nature to evaluate,
2606 assess, diagnose, treat, and prevent emotional and mental
2607 disorders and dysfunctions (whether cognitive, affective, or
2608 behavioral), sexual dysfunction, behavioral disorders,



805502

576-04082-17

alcoholism, or substance abuse. The practice of clinical social work may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

(c) The terms "diagnose" and "treat," as used in this chapter, when considered in isolation or in conjunction with ~~any provision of~~ the rules of the board, may ~~shall~~ not be construed to permit the performance of any act which clinical social workers are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures ~~pursuant to chapter 483~~, or radiological procedures, or use of electroconvulsive therapy. In addition, this definition ~~shall~~ may not be construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as "psychological," except to relate specifically to the definition of practice authorized in this subsection.

(8) The term "practice of marriage and family therapy" ~~means is defined as~~ the use of scientific and applied marriage and family theories, methods, and procedures for the purpose of describing, evaluating, and modifying marital, family, and individual behavior, within the context of marital and family systems, including the context of marital formation and dissolution, and is based on marriage and family systems theory, marriage and family development, human development, normal and abnormal behavior, psychopathology, human sexuality,



805502

576-04082-17

psychotherapeutic and marriage and family therapy theories and techniques. The practice of marriage and family therapy includes methods of a psychological nature used to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders or dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, and substance abuse. The practice of marriage and family therapy includes, but is not limited to, marriage and family therapy, psychotherapy, including behavioral family therapy, hypnotherapy, and sex therapy. The practice of marriage and family therapy also includes counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients, when using methods of a psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, or substance abuse. The practice of marriage and family therapy may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

(c) The terms "diagnose" and "treat," as used in this chapter, when considered in isolation or in conjunction with ~~any provision of~~ the rules of the board, may ~~shall~~ not be construed to permit the performance of any act that ~~which~~ marriage and family therapists are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal



805502

576-04082-17

2667 drugs as defined in chapter 465, authorizing clinical laboratory
2668 procedures ~~pursuant to chapter 483~~, or radiological procedures,
2669 or ~~the~~ use of electroconvulsive therapy. In addition, this
2670 definition ~~may shall~~ not be construed to permit any person
2671 licensed, provisionally licensed, registered, or certified
2672 pursuant to this chapter to describe or label any test, report,
2673 or procedure as "psychological," except to relate specifically
2674 to the definition of practice authorized in this subsection.

2675 (9) The term "practice of mental health counseling" means
2676 ~~is defined as~~ the use of scientific and applied behavioral
2677 science theories, methods, and techniques for the purpose of
2678 describing, preventing, and treating undesired behavior and
2679 enhancing mental health and human development and is based on
2680 the person-in-situation perspectives derived from research and
2681 theory in personality, family, group, and organizational
2682 dynamics and development, career planning, cultural diversity,
2683 human growth and development, human sexuality, normal and
2684 abnormal behavior, psychopathology, psychotherapy, and
2685 rehabilitation. The practice of mental health counseling
2686 includes methods of a psychological nature used to evaluate,
2687 assess, diagnose, and treat emotional and mental dysfunctions or
2688 disorders, ~~(whether cognitive, affective, or behavioral),~~
2689 ~~behavioral disorders~~, interpersonal relationships, sexual
2690 dysfunction, alcoholism, and substance abuse. The practice of
2691 mental health counseling includes, but is not limited to,
2692 psychotherapy, hypnotherapy, and sex therapy. The practice of
2693 mental health counseling also includes counseling, behavior
2694 modification, consultation, client-centered advocacy, crisis
2695 intervention, and the provision of needed information and



805502

576-04082-17

2696 education to clients, when using methods of a psychological
2697 nature to evaluate, assess, diagnose, treat, and prevent
2698 emotional and mental disorders and dysfunctions (whether
2699 cognitive, affective, or behavioral), behavioral disorders,
2700 sexual dysfunction, alcoholism, or substance abuse. The practice
2701 of mental health counseling may also include clinical research
2702 into more effective psychotherapeutic modalities for the
2703 treatment and prevention of such conditions.

2704 (c) The terms "diagnose" and "treat," as used in this
2705 chapter, when considered in isolation or in conjunction with any
2706 provision of the rules of the board, ~~may shall~~ not be construed
2707 to permit the performance of any act ~~that which~~ mental health
2708 counselors are not educated and trained to perform, including,
2709 but not limited to, admitting persons to hospitals for treatment
2710 of the foregoing conditions, treating persons in hospitals
2711 without medical supervision, prescribing medicinal drugs as
2712 defined in chapter 465, authorizing clinical laboratory
2713 procedures ~~pursuant to chapter 483~~, or radiological procedures,
2714 or ~~the~~ use of electroconvulsive therapy. In addition, this
2715 definition ~~may shall~~ not be construed to permit any person
2716 licensed, provisionally licensed, registered, or certified
2717 pursuant to this chapter to describe or label any test, report,
2718 or procedure as "psychological," except to relate specifically
2719 to the definition of practice authorized in this subsection.

2720 Section 99. Paragraph (h) of subsection (4) of section
2721 627.351, Florida Statutes, is amended to read:

2722 627.351 Insurance risk apportionment plans.-

2723 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.-

2724 (h) As used in this subsection:



805502

576-04082-17

2725 1. "Health care provider" means hospitals licensed under
2726 chapter 395; physicians licensed under chapter 458; osteopathic
2727 physicians licensed under chapter 459; podiatric physicians
2728 licensed under chapter 461; dentists licensed under chapter 466;
2729 chiropractic physicians licensed under chapter 460; naturopaths
2730 licensed under chapter 462; nurses licensed under part I of
2731 chapter 464; midwives licensed under chapter 467; ~~clinical~~
2732 ~~laboratories registered under chapter 483;~~ physician assistants
2733 licensed under chapter 458 or chapter 459; physical therapists
2734 and physical therapist assistants licensed under chapter 486;
2735 health maintenance organizations certificated under part I of
2736 chapter 641; ambulatory surgical centers licensed under chapter
2737 395; other medical facilities as defined in subparagraph 2.;
2738 blood banks, plasma centers, industrial clinics, and renal
2739 dialysis facilities; or professional associations, partnerships,
2740 corporations, joint ventures, or other associations for
2741 professional activity by health care providers.

2742 2. "Other medical facility" means a facility the primary
2743 purpose of which is to provide human medical diagnostic services
2744 or a facility providing nonsurgical human medical treatment, to
2745 which facility the patient is admitted and from which facility
2746 the patient is discharged within the same working day, and which
2747 facility is not part of a hospital. However, a facility existing
2748 for the primary purpose of performing terminations of pregnancy
2749 or an office maintained by a physician or dentist for the
2750 practice of medicine shall not be construed to be an "other
2751 medical facility."

2752 3. "Health care facility" means any hospital licensed under
2753 chapter 395, health maintenance organization certificated under



805502

576-04082-17

2754 part I of chapter 641, ambulatory surgical center licensed under
2755 chapter 395, or other medical facility as defined in
2756 subparagraph 2.

2757 Section 100. Paragraph (h) of subsection (1) of section
2758 627.602, Florida Statutes, is amended to read:

2759 627.602 Scope, format of policy.—

2760 (1) Each health insurance policy delivered or issued for
2761 delivery to any person in this state must comply with all
2762 applicable provisions of this code and all of the following
2763 requirements:

2764 (h) Section 641.312 and the provisions of the Employee
2765 Retirement Income Security Act of 1974, as implemented by 29
2766 C.F.R. s. 2560.503-1, relating to internal grievances. This
2767 paragraph does not apply ~~to a health insurance policy that is~~
2768 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
2769 ~~or~~ to the types of benefits or coverages provided under s.
2770 627.6513(1)-(14) issued in any market.

2771 Section 101. Subsection (1) of section 627.6406, Florida
2772 Statutes, is amended to read:

2773 627.6406 Maternity care.—

2774 (1) Any policy of health insurance which ~~that~~ provides
2775 coverage for maternity care must also cover the services of
2776 certified nurse-midwives and midwives licensed pursuant to
2777 chapter 467, and the services of birth centers licensed under
2778 ss. 383.30-383.332 ~~383.335~~.

2779 Section 102. Paragraphs (b) and (e) of subsection (1) of
2780 section 627.64194, Florida Statutes, are amended to read:

2781 627.64194 Coverage requirements for services provided by
2782 nonparticipating providers; payment collection limitations.—



805502

576-04082-17

2783 (1) As used in this section, the term:

2784 (b) "Facility" means a licensed facility as defined in s.
2785 395.002(16) and an urgent care center as defined in s.
2786 395.002(29) ~~s. 395.002(30)~~.

2787 (e) "Nonparticipating provider" means a provider who is not
2788 a preferred provider as defined in s. 627.6471 or a provider who
2789 is not an exclusive provider as defined in s. 627.6472. For
2790 purposes of covered emergency services under this section, a
2791 facility licensed under chapter 395 or an urgent care center
2792 defined in s. 395.002(29) ~~s. 395.002(30)~~ is a nonparticipating
2793 provider if the facility has not contracted with an insurer to
2794 provide emergency services to its insureds at a specified rate.

2795 Section 103. Section 627.6513, Florida Statutes, is amended
2796 to read:

2797 627.6513 Scope.—Section 641.312 and the provisions of the
2798 Employee Retirement Income Security Act of 1974, as implemented
2799 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
2800 apply to all group health insurance policies issued under this
2801 part. This section does not apply to ~~a group health insurance~~
2802 ~~policy that is subject to the Subscriber Assistance Program in~~
2803 ~~s. 408.7056 or to:~~

2804 (1) Coverage only for accident insurance, or disability
2805 income insurance, or any combination thereof.

2806 (2) Coverage issued as a supplement to liability insurance.

2807 (3) Liability insurance, including general liability
2808 insurance and automobile liability insurance.

2809 (4) Workers' compensation or similar insurance.

2810 (5) Automobile medical payment insurance.

2811 (6) Credit-only insurance.



805502

576-04082-17

2812 (7) Coverage for onsite medical clinics, including prepaid
2813 health clinics under part II of chapter 641.

2814 (8) Other similar insurance coverage, specified in rules
2815 adopted by the commission, under which benefits for medical care
2816 are secondary or incidental to other insurance benefits. To the
2817 extent possible, such rules must be consistent with regulations
2818 adopted by the United States Department of Health and Human
2819 Services.

2820 (9) Limited scope dental or vision benefits, if offered
2821 separately.

2822 (10) Benefits for long-term care, nursing home care, home
2823 health care, or community-based care, or any combination
2824 thereof, if offered separately.

2825 (11) Other similar, limited benefits, if offered
2826 separately, as specified in rules adopted by the commission.

2827 (12) Coverage only for a specified disease or illness, if
2828 offered as independent, noncoordinated benefits.

2829 (13) Hospital indemnity or other fixed indemnity insurance,
2830 if offered as independent, noncoordinated benefits.

2831 (14) Benefits provided through a Medicare supplemental
2832 health insurance policy, as defined under s. 1882(g)(1) of the
2833 Social Security Act, coverage supplemental to the coverage
2834 provided under 10 U.S.C. chapter 55, and similar supplemental
2835 coverage provided to coverage under a group health plan, which
2836 are offered as a separate insurance policy and as independent,
2837 noncoordinated benefits.

2838 Section 104. Subsection (1) of section 627.6574, Florida
2839 Statutes, is amended to read:

2840 627.6574 Maternity care.—



805502

576-04082-17

2841 (1) Any group, blanket, or franchise policy of health
2842 insurance ~~which that~~ provides coverage for maternity care must
2843 also cover the services of certified nurse-midwives and midwives
2844 licensed pursuant to chapter 467, and the services of birth
2845 centers licensed under ss. 383.30-383.332 ~~383.335~~.

2846 Section 105. Paragraph (j) of subsection (1) of section
2847 641.185, Florida Statutes, is amended to read:

2848 641.185 Health maintenance organization subscriber
2849 protections.-

2850 (1) With respect to the provisions of this part and part
2851 III, the principles expressed in the following statements ~~shall~~
2852 serve as standards to be followed by the commission, the office,
2853 the department, and the Agency for Health Care Administration in
2854 exercising their powers and duties, in exercising administrative
2855 discretion, in administrative interpretations of the law, in
2856 enforcing its provisions, and in adopting rules:

2857 ~~(j) A health maintenance organization should receive timely~~
2858 ~~and, if necessary, urgent review by an independent state~~
2859 ~~external review organization for unresolved grievances and~~
2860 ~~appeals pursuant to s. 408.7056.~~

2861 Section 106. Paragraph (a) of subsection (18) of section
2862 641.31, Florida Statutes, is amended to read:

2863 641.31 Health maintenance contracts.-

2864 (18)(a) Health maintenance contracts that provide coverage,
2865 benefits, or services for maternity care must provide, as an
2866 option to the subscriber, the services of nurse-midwives and
2867 midwives licensed pursuant to chapter 467, and the services of
2868 birth centers licensed pursuant to ss. 383.30-383.332 ~~383.335~~,
2869 if such services are available within the service area.



805502

576-04082-17

2870 Section 107. Section 641.312, Florida Statutes, is amended
2871 to read:

2872 641.312 Scope.-The Office of Insurance Regulation may adopt
2873 rules to administer the provisions of the National Association
2874 of Insurance Commissioners' Uniform Health Carrier External
2875 Review Model Act, issued by the National Association of
2876 Insurance Commissioners and dated April 2010. This section does
2877 not apply to a ~~health maintenance contract that is subject to~~
2878 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
2879 types of benefits or coverages provided under s. 627.6513(1)-
2880 (14) issued in any market.

2881 Section 108. Subsection (4) of section 641.3154, Florida
2882 Statutes, is amended to read:

2883 641.3154 Organization liability; provider billing
2884 prohibited.-

2885 (4) A provider or any representative of a provider,
2886 regardless of whether the provider is under contract with the
2887 health maintenance organization, may not collect or attempt to
2888 collect money from, maintain any action at law against, or
2889 report to a credit agency a subscriber of an organization for
2890 payment of services for which the organization is liable, if the
2891 provider in good faith knows or should know that the
2892 organization is liable. This prohibition applies during the
2893 pendency of any claim for payment made by the provider to the
2894 organization for payment of the services and any legal
2895 proceedings or dispute resolution process to determine whether
2896 the organization is liable for the services if the provider is
2897 informed that such proceedings are taking place. It is presumed
2898 that a provider does not know and should not know that an



805502

576-04082-17

organization is liable unless:

(a) The provider is informed by the organization that it accepts liability;

(b) A court of competent jurisdiction determines that the organization is liable; or

~~(c) The office or agency makes a final determination that the organization is required to pay for such services subsequent to a recommendation made by the Subscriber Assistance Panel pursuant to s. 408.7056; or~~

(c) ~~(d)~~ The agency issues a final order that the organization is required to pay for such services subsequent to a recommendation made by a resolution organization pursuant to s. 408.7057.

Section 109. Paragraph (c) of subsection (5) of section 641.51, Florida Statutes, is amended to read:

641.51 Quality assurance program; second medical opinion requirement.—

(5)

(c) For second opinions provided by contract physicians the organization is prohibited from charging a fee to the subscriber in an amount in excess of the subscriber fees established by contract for referral contract physicians. The organization shall pay the amount of all charges, which are usual, reasonable, and customary in the community, for second opinion services performed by a physician not under contract with the organization, but may require the subscriber to be responsible for up to 40 percent of such amount. The organization may require that any tests deemed necessary by a noncontract physician shall be conducted by the organization. The



805502

576-04082-17

organization may deny reimbursement rights granted under this section in the event the subscriber seeks in excess of three such referrals per year if such subsequent referral costs are deemed by the organization to be evidence that the subscriber has unreasonably overutilized the second opinion privilege. A subscriber ~~thus~~ denied reimbursement under this section has ~~shall have~~ recourse to grievance procedures as specified in ss. ~~408.7056~~, 641.495, and 641.511. The organization's physician's professional judgment concerning the treatment of a subscriber derived after review of a second opinion is ~~shall be~~ controlling as to the treatment obligations of the health maintenance organization. Treatment not authorized by the health maintenance organization is ~~shall be~~ at the subscriber's expense.

Section 110. Subsection (1), paragraph (e) of subsection (3), paragraph (d) of subsection (4), paragraphs (g) and (h) of subsection (6), and subsections (7) through (12) of section 641.511, Florida Statutes, are amended to read:

641.511 Subscriber grievance reporting and resolution requirements.—

(1) Every organization must have a grievance procedure available to its subscribers for the purpose of addressing complaints and grievances. Every organization must notify its subscribers that a subscriber must submit a grievance within 1 year after the date of occurrence of the action that initiated the grievance, ~~and may submit the grievance for review to the Subscriber Assistance Program panel as provided in s. 408.7056 after receiving a final disposition of the grievance through the organization's grievance process.~~ An organization shall maintain records of all grievances and shall report annually to the



805502

576-04082-17

2957 agency the total number of grievances handled, a categorization
2958 of the cases underlying the grievances, and the final
2959 disposition of the grievances.

2960 (3) Each organization's grievance procedure, as required
2961 under subsection (1), must include, at a minimum:

2962 (e) A notice that a subscriber may voluntarily pursue
2963 binding arbitration in accordance with the terms of the contract
2964 if offered by the organization, after completing the
2965 organization's grievance procedure and as an alternative to the
2966 Subscriber Assistance Program. Such notice shall include an
2967 explanation that the subscriber may incur some costs if the
2968 subscriber pursues binding arbitration, depending upon the terms
2969 of the subscriber's contract.

2970 (4)

2971 ~~(d) In any case when the review process does not resolve a~~
2972 ~~difference of opinion between the organization and the~~
2973 ~~subscriber or the provider acting on behalf of the subscriber,~~
2974 ~~the subscriber or the provider acting on behalf of the~~
2975 ~~subscriber may submit a written grievance to the Subscriber~~
2976 ~~Assistance Program.~~

2977 (6)

2978 ~~(g) In any case when the expedited review process does not~~
2979 ~~resolve a difference of opinion between the organization and the~~
2980 ~~subscriber or the provider acting on behalf of the subscriber,~~
2981 ~~the subscriber or the provider acting on behalf of the~~
2982 ~~subscriber may submit a written grievance to the Subscriber~~
2983 ~~Assistance Program.~~

2984 (g)(h) An organization shall not provide an expedited
2985 retrospective review of an adverse determination.



805502

576-04082-17

2986 ~~(7) Each organization shall send to the agency a copy of~~
2987 ~~its quarterly grievance reports submitted to the office pursuant~~
2988 ~~to s. 408.7056(12).~~

2989 ~~(7)(8)~~ The agency shall investigate all reports of
2990 unresolved quality of care grievances received from
2991 ~~(a)~~ annual and quarterly grievance reports submitted by the
2992 organization to the office.

2993 ~~(b) Review requests of subscribers whose grievances remain~~
2994 ~~unresolved after the subscriber has followed the full grievance~~
2995 ~~procedure of the organization.~~

2996 ~~(9)(a) The agency shall advise subscribers with grievances~~
2997 ~~to follow their organization's formal grievance process for~~
2998 ~~resolution prior to review by the Subscriber Assistance Program.~~
2999 ~~The subscriber may, however, submit a copy of the grievance to~~
3000 ~~the agency at any time during the process.~~

3001 ~~(b) Requiring completion of the organization's grievance~~
3002 ~~process before the Subscriber Assistance Program panel's review~~
3003 ~~does not preclude the agency from investigating any complaint or~~
3004 ~~grievance before the organization makes its final determination.~~

3005 ~~(10) Each organization must notify the subscriber in a~~
3006 ~~final decision letter that the subscriber may request review of~~
3007 ~~the organization's decision concerning the grievance by the~~
3008 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~
3009 ~~the grievance is not resolved to the satisfaction of the~~
3010 ~~subscriber. The final decision letter must inform the subscriber~~
3011 ~~that the request for review must be made within 365 days after~~
3012 ~~receipt of the final decision letter, must explain how to~~
3013 ~~initiate such a review, and must include the addresses and toll-~~
3014 ~~free telephone numbers of the agency and the Subscriber~~



805502

576-04082-17

3015 ~~Assistance Program.~~

3016 ~~(8)(11)~~ Each organization, as part of its contract with any
3017 provider, must require the provider to post a consumer
3018 assistance notice prominently displayed in the reception area of
3019 the provider and clearly noticeable by all patients. The
3020 consumer assistance notice must state the addresses and toll-
3021 free telephone numbers of the Agency for Health Care
3022 Administration, ~~the Subscriber Assistance Program~~, and the
3023 Department of Financial Services. The consumer assistance notice
3024 must also clearly state that the address and toll-free telephone
3025 number of the organization's grievance department shall be
3026 provided upon request. The agency may adopt rules to implement
3027 this section.

3028 ~~(9)(12)~~ The agency may impose administrative sanction, in
3029 accordance with s. 641.52, against an organization for
3030 noncompliance with this section.

3031 Section 111. Subsection (1) of section 641.515, Florida
3032 Statutes, is amended to read:

3033 641.515 Investigation by the agency.—

3034 (1) The agency shall investigate further any quality of
3035 care issue contained in recommendations and reports submitted
3036 pursuant to ~~s. ss. 408.7056~~ and 641.511. The agency shall also
3037 investigate further any information that indicates that the
3038 organization does not meet accreditation standards or the
3039 standards of the review organization performing the external
3040 quality assurance assessment pursuant to reports submitted under
3041 s. 641.512. Every organization shall submit its books and
3042 records and take other appropriate action as may be necessary to
3043 facilitate an examination. The agency shall have access to the



805502

576-04082-17

3044 organization's medical records of individuals and records of
3045 employed and contracted physicians, with the consent of the
3046 subscriber or by court order, as necessary to carry out the
3047 provisions of this part.

3048 Section 112. Subsection (2) of section 641.55, Florida
3049 Statutes, is amended to read:

3050 641.55 Internal risk management program.—

3051 (2) The risk management program shall be the responsibility
3052 of the governing authority or board of the organization. Every
3053 organization which has an annual premium volume of \$10 million
3054 or more and which directly provides health care in a building
3055 owned or leased by the organization shall hire a risk manager,
3056 ~~certified under ss. 395.10971-395.10975~~, who ~~is~~ shall be
3057 responsible for implementation of the organization's risk
3058 management program required by this section. A part-time risk
3059 manager ~~may shall~~ not be responsible for risk management
3060 programs in more than four organizations or facilities. Every
3061 organization ~~that which~~ does not directly provide health care in
3062 a building owned or leased by the organization and every
3063 organization with an annual premium volume of less than \$10
3064 million shall designate an officer or employee of the
3065 organization to serve as the risk manager.

3066
3067 The gross data compiled under this section or s. 395.0197 shall
3068 be furnished by the agency upon request to organizations to be
3069 utilized for risk management purposes. The agency shall adopt
3070 rules necessary to carry out the provisions of this section.

3071 Section 113. Section 641.60, Florida Statutes, is repealed.

3072 Section 114. Section 641.65, Florida Statutes, is repealed.



805502

576-04082-17

3073 Section 115. Section 641.67, Florida Statutes, is repealed.
3074 Section 116. Section 641.68, Florida Statutes, is repealed.
3075 Section 117. Section 641.70, Florida Statutes, is repealed.
3076 Section 118. Section 641.75, Florida Statutes, is repealed.
3077 Section 119. Paragraph (b) of subsection (6) of section
3078 766.118, Florida Statutes, is amended to read:
3079 766.118 Determination of noneconomic damages.—
3080 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
3081 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
3082 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
3083 respect to a cause of action for personal injury or wrongful
3084 death arising from medical negligence of a practitioner
3085 committed in the course of providing medical services and
3086 medical care to a Medicaid recipient, regardless of the number
3087 of such practitioner defendants providing the services and care,
3088 noneconomic damages may not exceed \$300,000 per claimant, unless
3089 the claimant pleads and proves, by clear and convincing
3090 evidence, that the practitioner acted in a wrongful manner. A
3091 practitioner providing medical services and medical care to a
3092 Medicaid recipient is not liable for more than \$200,000 in
3093 noneconomic damages, regardless of the number of claimants,
3094 unless the claimant pleads and proves, by clear and convincing
3095 evidence, that the practitioner acted in a wrongful manner. The
3096 fact that a claimant proves that a practitioner acted in a
3097 wrongful manner does not preclude the application of the
3098 limitation on noneconomic damages prescribed elsewhere in this
3099 section. For purposes of this subsection:
3100 (b) The term “practitioner,” in addition to the meaning
3101 prescribed in subsection (1), includes any hospital or



805502

576-04082-17

3102 ambulatory surgical center, ~~or mobile surgical facility~~ as
3103 defined and licensed under chapter 395.
3104 Section 120. Subsection (4) of section 766.202, Florida
3105 Statutes, is amended to read:
3106 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
3107 766.201-766.212, the term:
3108 (4) “Health care provider” means any hospital or,
3109 ambulatory surgical center, ~~or mobile surgical facility~~ as
3110 defined and licensed under chapter 395; a birth center licensed
3111 under chapter 383; any person licensed under chapter 458,
3112 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
3113 part I of chapter 464, chapter 466, chapter 467, part XIV of
3114 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
3115 ~~chapter 483~~; a health maintenance organization certificated
3116 under part I of chapter 641; a blood bank; a plasma center; an
3117 industrial clinic; a renal dialysis facility; or a professional
3118 association partnership, corporation, joint venture, or other
3119 association for professional activity by health care providers.
3120 Section 121. Section 945.36, Florida Statutes, is amended
3121 to read:
3122 945.36 ~~Exemption from health testing regulations for~~ Law
3123 enforcement personnel authorized to conduct ~~conducting~~ drug
3124 tests on inmates and releasees.—
3125 (1) Any law enforcement officer, state or county probation
3126 officer, or employee of the Department of Corrections, who is
3127 certified by the Department of Corrections pursuant to
3128 subsection (2) may administer, ~~is exempt from part I of chapter~~
3129 ~~483, for the limited purpose of administering~~ a urine screen
3130 drug test to:



805502

576-04082-17

- 3131 (a) Persons during incarceration;
3132 (b) Persons released as a condition of probation for either
3133 a felony or misdemeanor;
3134 (c) Persons released as a condition of community control;
3135 (d) Persons released as a condition of conditional release;
3136 (e) Persons released as a condition of parole;
3137 (f) Persons released as a condition of provisional release;
3138 (g) Persons released as a condition of pretrial release; or
3139 (h) Persons released as a condition of control release.

3140 (2) The Department of Corrections shall develop a procedure
3141 for certification of any law enforcement officer, state or
3142 county probation officer, or employee of the Department of
3143 Corrections to perform a urine screen drug test on the persons
3144 specified in subsection (1).

3145 Section 122. Paragraph (b) of subsection (2) of section
3146 1009.65, Florida Statutes, is amended to read:

3147 1009.65 Medical Education Reimbursement and Loan Repayment
3148 Program.—

3149 (2) From the funds available, the Department of Health
3150 shall make payments to selected medical professionals as
3151 follows:

3152 (b) All payments ~~are shall be~~ contingent on continued proof
3153 of primary care practice in an area defined in s. 395.602(2)(b)
3154 ~~s. 395.602(2)(c)~~, or an underserved area designated by the
3155 Department of Health, provided the practitioner accepts Medicaid
3156 reimbursement if eligible for such reimbursement. Correctional
3157 facilities, state hospitals, and other state institutions that
3158 employ medical personnel shall be designated by the Department
3159 of Health as underserved locations. Locations with high



805502

576-04082-17

3160 incidences of infant mortality, high morbidity, or low Medicaid
3161 participation by health care professionals may be designated as
3162 underserved.

3163 Section 123. Subsection (2) of section 1011.52, Florida
3164 Statutes, is amended to read:

3165 1011.52 Appropriation to first accredited medical school.—

3166 (2) In order for a medical school to qualify under ~~the~~
3167 ~~provisions of~~ this section and to be entitled to the benefits
3168 herein, such medical school:

3169 (a) Must be primarily operated and established to offer,
3170 afford, and render a medical education to residents of the state
3171 qualifying for admission to such institution;

3172 (b) Must be operated by a municipality or county of this
3173 state, or by a nonprofit organization heretofore or hereafter
3174 established exclusively for educational purposes;

3175 (c) Must, upon the formation and establishment of an
3176 accredited medical school, transmit and file with the Department
3177 of Education documentary proof evidencing the facts that such
3178 institution has been certified and approved by the council on
3179 medical education and hospitals of the American Medical
3180 Association and has adequately met the requirements of that
3181 council in regard to its administrative facilities,
3182 administrative plant, clinical facilities, curriculum, and all
3183 other such requirements as may be necessary to qualify with the
3184 council as a recognized, approved, and accredited medical
3185 school;

3186 (d) Must certify to the Department of Education the name,
3187 address, and educational history of each student approved and
3188 accepted for enrollment in such institution for the ensuing



805502

576-04082-17

3189 school year; and

3190 (e) Must have in place an operating agreement with a
3191 government-owned hospital that is located in the same county as
3192 the medical school and that is a statutory teaching hospital as
3193 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement
3194 must ~~shall~~ provide for the medical school to maintain the same
3195 level of affiliation with the hospital, including the level of
3196 services to indigent and charity care patients served by the
3197 hospital, which was in place in the prior fiscal year. Each
3198 year, documentation demonstrating that an operating agreement is
3199 in effect shall be submitted jointly to the Department of
3200 Education by the hospital and the medical school prior to the
3201 payment of moneys from the annual appropriation.

3202 Section 124. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 1760

INTRODUCER: Senators Grimsley and Campbell

SUBJECT: Health Care Facility Regulation

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	Favorable
2.	Forbes	Williams	AHS	Recommend: Fav/CS
3.	Forbes	Hansen	AP	Pre-meeting
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1760 includes regulatory reductions, revisions to minimize or eliminate conflicts with federal or state requirements, and new provisions to recognize changing needs, and deletes obsolete provisions in the regulation of health care facilities by the Agency for Health Care Administration (AHCA or agency). The bill:

- Abolishes the licensure of clinical laboratories and health care risk managers. The requirement for clinical laboratories to be certified under federal requirements remains in effect. Health care risk managers remain an integral part of a comprehensive risk management program, but will no longer require licensure.
- Removes mobile surgical facilities from health care facility regulation.
- Authorizes hospitals to use alternate-site testing for certain laboratory services.
- Requires the agency to adopt rules for minimum licensure requirements relating to pediatric cardiac catheterization, pediatric open-heart surgery, organ transplantation, neonatal intensive care services, psychiatric services, and comprehensive medical rehabilitation.
- Requires each home health agency to identify the home health services it provides and indicate whether each service is considered skilled care. Additional regulatory requirements will apply to home health agencies providing skilled services.
- Establishes a voluntary process to apply for a certificate of exemption from licensure for a person providing home health services that are exempt from licensure.
- Enhances and clarifies the provisions affecting unlicensed activity for nurse registries and assisted living facilities.

- Clarifies responsibilities of nurse registries to reinforce the status of persons they refer to be independent contractors rather than employees.
- Removes prohibitions on a nurse registry providing remuneration to certain individuals who may provide referrals.
- Deletes certain provisions within specific facility licensing chapters to eliminate inconsistencies with the general facility licensing chapter, or to reduce regulatory burdens.
- Authorizes a licensee to request the alignment of the expiration date for multiple licenses held by the licensee.
- Repeals the subscriber assistance program and the statewide managed care ombudsman committee.

The AHCA estimates a total annual revenue reduction of \$1,448,266 due to repeal of licensure for clinical laboratories and health care risk managers.

The act is effective July 1, 2017, except as otherwise expressly provided in the act.

II. Present Situation:

The AHCA is created in s. 20.42, F.S. It is the chief health policy and planning entity for the state and is responsible for, among other things, health facility licensure, inspection, and regulatory enforcement. It licenses or certifies and regulates 40 different types of health care providers, including hospitals, nursing homes, assisted living facilities, and home health agencies. In total, the agency licenses, certifies, regulates or provides exemptions for more than 42,000 providers.¹

Generally applicable provisions of health care provider licensure are addressed in the Health Care Licensing Procedures Act in part II of ch. 408, F.S. Additional chapters or sections in the Florida Statutes provide specific licensure or regulatory requirements pertaining to health care providers in this state.²

Due to the many diverse issues within the bill, pertinent background is provided within the effect of proposed changes for the reader's convenience.

III. Effect of Proposed Changes:

Clinical Laboratories and Clinical Laboratory Personnel

Clinical Laboratories

The federal Centers for Medicare & Medicaid Services (CMS) regulates all laboratory testing (except research) performed on humans in the U.S. through the Clinical Laboratory Improvement Amendments (CLIA).³ Facilities that provide clinical laboratory services are required to be certified by the CMS CLIA laboratory certification program, which operates in conjunction with

¹ See the Agency for Health Care Administration, Division of Health Quality Assurance web page available at: <http://ahca.myflorida.com/MCHQ/index.shtml> (last visited March 22, 2017).

² See s. 408.802, F.S., for the health care provider types and applicable licensure statutes.

³ <https://www.cms.gov/Regulations-and-Guidance/Legislation/CLIA/index.html?redirect=CLIA> (last visited Mar. 17, 2017).

the Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention (CDC). Certain laboratories may qualify as a waived testing laboratory and receive a CLIA Certificate of Waiver.⁴

Clinical laboratories in the state performing non-waived tests must also obtain a state license from the AHCA and comply with part I of ch. 483, F.S., relating to clinical laboratories, and the general licensing provisions in part II of ch. 408, F.S. This requirement also applies to a clinical laboratory operated by one or more practitioners such as physicians, chiropractors, podiatrists, optometrists, or dentists, exclusively in connection with the diagnosis and treatment of their own patients.⁵

As of July 1, 2016, the agency licenses 3,862 clinical laboratories and collects an average of \$1,129,000 per year in recurring licensure fees and an average of \$254,400 per year in recurring biennial assessments required by s. 408.033, F.S. The federal CLIA program certifies another 17,877 Florida-based laboratories that only perform waived testing which is exempt from state licensure requirements.⁶

Section 72 repeals part I of ch. 483, F.S., relating to the licensure and regulation of clinical laboratories by the agency. Part I includes ss. 483.011 - 483.26, F.S. Laboratories will continue to be certified by, or receive a certificate of waiver from the CMS under the CLIA. Included within the repeal is a requirement that lab results must be reported directly to the licensed practitioner or other authorized person who requested it, and the authorization for a laboratory to disclose the results without a patient's consent to other health care practitioners and providers involved in the care or treatment of the patient as specified in s. 456.057(7)(a), F.S.

Conforming amendments:

- Sections 5, 7, 10, and 16 amend ss. 381.0031, 381.004, 384.31, and 395.009, F.S., respectively, to remove references to a laboratory licensed under ch. 483, F.S., and to instead refer to a laboratory certified by the CMS under the CLIA.
- Section 6 amends s. 381.0034, F.S., to conform a cross-reference to the repeal of part I of ch. 483, F.S.
- Section 8 amends s. 383.313, F.S., to conform the performance of laboratory services by a birth center to the repeal of clinical laboratory licensure and the changes in the licensure of clinical laboratory personnel.
- Section 33 amends s. 395.7015, F.S., to remove licensed clinical laboratories from the annual assessment imposed on health care entities.
- Section 34 amends s. 400.0625, F.S., to require all clinical laboratory tests performed for a nursing home to be performed by a licensed clinical laboratory, with certain exceptions. (See

⁴ Waived testing laboratories: employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible, pose no reasonable risk of harm to the patient if the test is performed incorrectly, use tests that are cleared by the FDA for home use, and conduct testing that is considered non-technical requiring little or no difficulty. See Agency for Health Care Administration, Waived Laboratories:

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Laboratory_Licensure/waived_apps.shtml (last visited Mar. 17, 2017).

⁵ Section 483.035(1), F.S.

⁶ Agency for Health Care Administration, *Senate Bill 1760 Analysis* (March 10, 2017), p. 5, (on file with the Senate Committee on Health Policy).

comment under technical deficiencies.) The bill also deletes the requirement that clinical laboratory tests performed prior to admission in the nursing home by qualified labs shall be accepted in lieu of additional laboratory tests that might be required as a part of the routine examinations for admission.

- Section 47 amends s. 400.9905, F.S., relating to health care clinics, to remove cross-reference to licensure under part I of ch. 483.
- Section 48 amends s. 408.033, F.S., relating to local and state health planning, to remove the assessment imposed on clinical laboratories as a funding source of local health councils.
- Section 51 amends s. 408.07, F.S., relating to the Florida Center for Health Information and Transparency and related reporting by licensed health care facilities to remove the definition of clinical laboratories.
- Section 54 amends s. 408.802, F.S., to delete clinical laboratories from regulation under part II of ch. 408, F.S.
- Section 59 amends s. 408.820, F.S., to delete specified exemptions applicable to the regulation of clinical laboratories.
- Section 60 amends s. 409.905, F.S., to delete reference to licensure under ch. 483 and adds the requirement for certification by the CMS under CLIA for laboratory services that are paid for by Medicaid.
- Sections 62 and 71 amend ss. 409.975 and 458.345, F.S., respectively, to conform a cross-reference to the renumbered definitions in s. 408.07, F.S., in section 51.
- Sections 68 and 69 amend ss. 456.001 and 456.057 F.S., respectively, to conform cross-references that have changed due to the repeal of part I of ch. 483, F.S.
- Section 75 amends s. 483.803, F.S., to conform definitions to the repeal of part I of ch. 483, F.S.
- Sections 76 and 77 amend ss. 483.813 and 491.003, F.S., to remove references to provisions in part I of ch. 483, F.S.
- Section 78 amends s. 627.351, F.S., relating to medical malpractice risk apportionment to remove clinical laboratories from the definition of health care provider.
- Section 94 amends s. 945.36, F.S., to affirmatively authorize certain law enforcement personnel to administer a urine screen drug test on inmates and releases, rather than exempting the law enforcement personnel from part I of ch. 483, F.S.

Clinical Laboratory Personnel

Individuals who perform testing in licensed clinical laboratories are required to be licensed by the Department of Health, Board of Clinical Laboratory Personnel (board). Licenses issued by the board are specific to the role of the individuals and the specialties in which they perform that role. Certain exemptions from licensure by the board apply, such as for physicians, chiropractors, podiatrists, or dentists, and certain researchers.⁷ The board is composed of seven members and has authority to adopt rules to implement the provisions of part III of ch. 483, F.S., relating to clinical laboratory personnel.

Section 1 amends s. 20.43, F.S., to repeal the Board of Clinical Laboratory Personnel under the Division of Medical Quality Assurance in the Department of Health.

⁷ Sections 483.801 and 483.813, F.S.

Section 74 amends s. 483.801, F.S., to exempt from licensure persons engaged in testing performed by laboratories that are wholly owned and operated by one or more practitioners who are licensed under Florida law as allopathic or osteopathic physicians, chiropractors, podiatrists, optometrists, or dentists and who practice in the same group practice, and in which no clinical laboratory work is performed for patients referred by a health care provider who is not a member of the same group.

Hospital and Health Care Facility Licensure

The regulation of, and all references to, mobile surgical facilities are removed from health care facility regulation. Part I of ch. 395, F.S., was amended to include mobile surgical facility as a license type in 1998. A definition of a mobile surgical facility restricts its use to the Department of Corrections (DOC) or a private correctional facility to provide surgical procedures to inmates. No license has ever been issued for a mobile surgical facility and none are anticipated. The DOC operates one hospital that does not offer surgical services directly to its inmates; rather it contracts with a licensed ambulatory surgical center (ASC). A separate license type is not needed in order to meet the surgical needs of the inmate population.⁸

Conforming amendments:

- Sections 11, 12, 61, 62, and 80 amend ss. 385.211, 394.4787, 409.9116, 409.975, and 627.64194, F.S., respectively, to conform a cross-reference to the renumbered definitions in s. 395.002, F.S.
- Sections 13, 14, 15, 18, 19, 92, and 93 amend ss. 395.001, 395.002, 395.003, 395.0161, 395.0163, 766.118, and 766.202, F.S., respectively, to remove reference to a mobile surgical facility in the section.
- Section 33 amends s. 395.7015, F.S., to remove mobile surgical facilities from the annual assessment imposed on health care entities.
- Section 49 amends s. 408.036, F.S., to remove mobile surgical facilities as a project subject to an exemption for certificates of need (CON).
- Section 54 amends s. 408.802, F.S., to delete mobile surgical facilities from regulation under part II of ch. 408, F.S.
- Section 59 amends s. 408.820, F.S., to delete specified exemptions applicable to the regulation of mobile surgical facilities.

Section 17 creates s. 395.0091, F.S., relating to alternate-site testing, to enable hospitals to use a laboratory testing site in which the testing is done under the administrative control of a hospital but performed out of the physical or administrative confines of the central laboratory. This section directs the agency, in consultation with the Board of Clinical Laboratory Personnel, to adopt by rule the criteria for alternate-site testing to be performed under the supervision of a clinical laboratory director. The rule must address, at a minimum, a hospital internal needs assessment, a protocol of implementation, criteria to be used in selecting the method of testing, minimum training and education requirements of professionals in the laboratory, an internal and external quality control protocol, tracking mechanisms between the alternate-site and the central laboratory, and recordkeeping. An alternate-site testing location must be registered when the hospital renews its license.

⁸ *Supra* note 6, p. 3.

Section 26 repeals s. 395.10974, F.S., which establishes the licensure requirements for health care risk managers. Section 20 amends s. 395.0197, F.S., to require an internal risk manager of a health care facility to demonstrate to the hiring facility or its governing board, competence, by education or experience in the same areas⁹ as required to be demonstrated to the agency for licensure as a health care risk manager. This section also removes references to licensure under s. 395.10974, F.S., as a risk manager.

Conforming amendments:

- Section 23 repeals s. 395.10971, F.S., which provides legislative findings and intent with respect to the health care risk manager program.
- Section 24 repeals s. 395.10972, F.S., which establishes a health care risk manager advisory council within the agency. There are no current council members, and there have been no council meetings for at least 10 years. In addition, the statute contains no defined role or responsibilities for the council.¹⁰
- Section 25 amends s. 395.10973, F.S., to eliminate the agency's rulemaking authority for licensure standards, determination of qualification, and licensure of a health care risk manager.
- Section 27 repeals s. 395.10975, F.S., relating to grounds for denial, suspension, or revocation of a health care risk manager's license.
- Section 54 amends s. 408.802, F.S., to delete health care risk managers from regulation under part II of ch. 408, F.S.
- Section 59 amends s. 408.820, F.S., to delete specified exemptions applicable to the regulation of health care risk managers.
- Sections 70 and 88 amend ss. 458.307 and 641.55, F.S., respectively, to remove reference to the licensure requirement for a health care risk manager.

Section 21 repeals s. 395.1046, F.S., relating to the complaint investigation procedures for alleged violation of the emergency access to care provisions found in s. 395.1041, F.S. The state's emergency access to care provisions are similar to the federal Emergency Medical Treatment and Labor Act, commonly known as EMTALA.¹¹ The agency enforces the emergency access to care requirements through the uniform complaint investigation procedure used for all license types and these complaints are given top priority. Section 395.1046, F.S., duplicates the complaint investigation procedures found in the general licensing provisions in part II of ch. 408, F.S. Also, s. 395.1046, F.S., provides confidentiality protections and a public records exemption

⁹ These areas include: applicable standards of health care risk management; applicable federal, state, and local health and safety laws and rules; general risk management administration; patient care; medical care; personal and social care; accident prevention; departmental organization and management; community interrelationships; and medical terminology. See s. 395.10974(1), F.S.

¹⁰ *Supra* n. 6, p. 4.

¹¹ EMTALA, also known as the patient antidumping statute, was passed in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272. Section 1867 of the Act sets forth requirements for medical screening examinations for individuals who come to the emergency department of a hospital and request examination or treatment for an emergency medical condition, regardless of ability to pay. The statute further provides that, if a hospital finds that such an individual has an emergency medical condition, it is obligated to provide that individual with either necessary stabilizing treatment or an appropriate transfer to another medical facility. See the CMS.gov website at: <https://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/index.html> (last visited March 18, 2017).

for the results in the investigation report, that the agency proposes is an unnecessary level of confidentiality.¹²

Section 22 amends s. 395.1055, F.S., to requires the agency to adopt rules to ensure that all hospitals providing pediatric cardiac catheterization, pediatric open-heart surgery, organ transplantation, neonatal intensive care services, psychiatric services, or comprehensive medical rehabilitation meet the minimum licensure requirements adopted by the agency. The licensure requirement shall include quality of care, nurse staffing, physician staffing, physical plant, equipment, emergency transportation, and data reporting standards. The agency indicates that adopted rules for all these procedures may take some time due to the interaction of various stakeholders.¹³ The CON process includes standards; however, these conditions are not required to be met for continued licensure.¹⁴

Section 28 amends s. 395.602, F.S., relating to rural hospitals, to remove the definitions of “emergency care hospital,” “essential access community hospital,” “inactive rural hospital bed,” and “rural primary care hospital.” These definitions relate to obsolete rural hospital programs that are no longer available or applicable to rural hospitals. Hospitals are authorized to make changes to their bed inventory at will so there is no longer a need to maintain an inventory of inactive rural hospital beds for CON purposes.¹⁵

Conforming amendments:

- Section 29 amends s. 395.603, F.S., to remove provisions relating to the deactivation of general hospital beds in order to seek licensure for programs that are now obsolete.
- Section 30 repeals s. 395.604, F.S., relating to licensing hospitals for these obsolete programs.
- Section 31 repeals s. 395.605, F.S., relating to licensing emergency care hospitals, which is now an obsolete program.
- Section 95 amends s. 1009.65, F.S., to conform a cross-reference to the renumbered definitions in s. 395.602, F.S.

Section 32 amends s. 395.701, F.S., relating to hospital assessments on inpatient and outpatient services. Current law excludes hospitals operated by the agency or the DOC. This section amends the current exclusion to any hospital operated by a state agency, to specifically exclude hospitals operated by the Department of Children and Families.¹⁶

Home Health Agencies

Section 35 amends s. 400.464, F.S., to require any license issued after June 30, 2017, to specify the home health services that the organization is authorized to perform and indicate whether each service is considered skilled care. In addition, providing or advertising services that require licensure and which are not specified on the face of the license issued after June 30, 2017, constitutes prohibited unlicensed activity.

¹² *Supra* n. 6, p. 3.

¹³ *Supra* note 6, p. 4.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

The bill authorizes a voluntary process for applying for a certificate of exemption from licensure for a person providing home health services who is exempt from licensure as a home health agency. The agency may charge a fee of \$100 or the actual cost of processing this certificate.

Conforming amendment:

Section 40 amends s. 400.497, F.S., relating to agency rulemaking to include applications for certificates of exemption from licensure.

Section 36 amends s. 400.471, F.S., to require application for a change of ownership or for the addition of skilled services. Applicants for license renewal no longer need to provide volume data. Under the bill, evidence of contingency funding refers to the general licensing provisions in part II of ch. 408, F.S., to eliminate an inconsistency between the two chapters. Under current law, a home health agency that is not Medicare or Medicaid certified and does not provide skilled care is exempt from providing proof of accreditation. This bill provides the exemption only if the home health agency does not provide skilled care. The bill further clarifies that the accrediting organization must be recognized by the agency, the survey must demonstrate compliance with Florida laws pertaining to home health agencies, and must be continuously maintained.

Section 36 and 37 amend ss. 400.471 and 400.474, F.S., respectively, to clarify that a licensed home health agency must provide the services specified in the written agreement with the patient except in emergency situations that are beyond the provider's control that make it impossible to provide the services.

Section 38 amends s. 400.476, F.S., to require a home health agency that provides skilled nursing care to have a director of nursing. Current law exempts a home health agency from this requirement if it is Medicare or Medicaid certified or provides only physical, occupational, or speech therapy. This exemption is repealed.

Section 39 amends s. 400.484, F.S., renaming deficiencies as violations with respect to providing care by home health agencies and tying these violations to the general licensing provisions for health care facilities in part II of ch. 408, F.S.

Nurse Registries

Section 41 amends s. 400.506, F.S., to remove a grace period of 10-working days after notification from the agency that licensure is required, for an unlicensed nurse registry to cease operating to avoid committing a misdemeanor of the second degree. Under the bill, the unlicensed nurse registry must cease operations immediately. The agency is authorized to impose a fine of \$1,000 per day in accordance with s. 408.812, F.S., in the general licensing provisions pertaining to unlicensed activity, rather than the \$500 fine specified in this statute specifically relating to nurse registries.

This section clarifies the status of persons referred by the nurse registry as independent contractors rather than employees. Current law provides that is not the obligation of a nurse registry to monitor, supervise, manage, or train a referred caregiver. The bill strengthens this

concept by providing that a nurse registry is not permitted to do any of those activities. Similarly, although a nurse registry is required to act as a repository of records, the bill provides that the nurse registry is not permitted to review or act upon such records, except for providing patients with information and notifying applicable licensing boards if a referred caregiver has credentialing deficiencies.

In addition, this section of the bill removes the prohibitions on a nurse registry providing remuneration to a case manager, discharge planner, facility based staff member, third party vendor, physician, member of the physician's office staff, or an immediate family member of a physician for referrals. Current law already exempts nurse registries from this prohibition if they do not bill Medicare or Medicaid or share a controlling interest with any entity that bills Medicare or Medicaid.

Assisted Living Facilities (ALF)

Section 63 amends s. 429.02, F.S., to revise the definition of personal services to prohibit an ALF from providing personal services to individuals who are not residents of the facility unless the ALF is providing authorized adult day care services within the licensed ALF. Section 67 amends s. 429.41, F.S., to require rulemaking for reasonable and fair minimum standards on this prohibition.

Section 64 amends s. 429.04, F.S., relating to exemptions from licensure to clarify and expand the exemptions to include a licensed hospital, nursing home, inpatient hospice, home for special services,¹⁷ intermediate care facility, or transitional living facility. Additionally, this section assigns the burden of providing documentation substantiating an exemption to the person or entity asserting an exemption in response to an agency investigation of unlicensed activity.

A current exemption includes any person who provides housing, meals, or one or more personal services on a 24-hour basis in the person's own home to not more than two adults who do not receive optional state supplementation. The bill specifies that in addition to owning or renting the home, the person who provides these services must have established the home as the person's permanent residence. If the person holds a homestead exemption at a different address, a presumption exists that the person has not established permanent residence as required by this section. Furthermore, the bill provides that the exemption does not apply to a person or entity who previously held licensure issued by the agency and such license was revoked or licensure renewal was denied by final order, or when the license was voluntarily relinquished during agency enforcement proceedings.

Section 65 amends s. 429.08, F.S., relating to unlicensed facilities to clarify and create a felony of the third degree penalty for renting or otherwise maintaining a building or property that operates or maintains an unlicensed ALF. Similarly, this section now provides that any person who owns, operates, or maintains an unlicensed ALF after receiving notice from the agency that licensure is required and to cease such operation commits a felony of the third degree. Current law provides a six-month window after a statutory or rule change takes place if the change

¹⁷ Homes for special services is defined in s. 400.801, F.S., as a site licensed by the agency prior to January 1, 2006, where specialized health care services are provided, including personal and custodial care, but not continuous nursing services.

placed the person in the position of violating this provision before the violation occurs. This six-month timeframe is repealed in the bill.

Section 66 amends s. 429.176, F.S., to prohibit an ALF from operating for more than 120 consecutive days without an administrator who has completed the core educational requirements.

Multiphasic Health Testing Centers

Section 73 amends s. 483.294, F.S., to remove the requirement that a multiphasic health testing center must be inspected at least annually. Inspections are to be done in accordance with s. 408.811, F.S., which provides that inspections for relicensure shall occur biennially; however, an inspection may be performed at any time as needed. The general licensing provisions in part II of ch. 408, F.S., allow for accreditation inspections to be accepted in lieu of a full licensure inspection.

Amendments referencing General Licensing Provisions and Technical Amendments

Hospices

Section 42 amends s. 400.606, F.S., to remove the required submission of certain financial information at licensure renewal. This requirement conflicts with submission requirements in the general licensure requirements in part II of ch. 408, F.S.

Home Medical Equipment Providers

Section 43 is a technical amendment to s. 400.925, F.S., to move wheelchairs and related seating and positioning devices to a separate paragraph within the definition of home medical equipment.

Section 44 amends s. 400.931, F.S., to require a licensed home medical equipment provider to notify the agency of a change in the general manager within the timeframes established in part II of ch. 408, F.S., which is 21 days, rather than the 45-day timeframe provided in this section of law.

Section 45 is a technical amendment to s. 400.933, F.S., correcting the name of the state agency that issues medical oxygen retail establishment permits. It is now the Department of Business and Professional Regulation.

Health Care Service Pools

Section 46 amends s. 400.980, F.S., to require changes of information contained on the original registration application to be submitted to the agency within the timeframes established in part II of ch. 408, F.S., rather than 14 days prior to the change as required in this section of law.

General Licensing Provisions

Section 55 amends s. 408.803, F.S., to add a definition of “relative.”

Section 56 amends s. 408.806, F.S., relating to the license application process, to require the licensee to ensure that no person has any ownership interest in a licensee, directly or indirectly, who is ineligible pursuant to s. 408.809(4), F.S., which lists additional disqualifying offenses, most of which are fraud-related activity. Additionally, the licensee is required to ensure that no person holds or has held any ownership interest in a provider that has had a license or change of ownership application denied, revoked, or excluded pursuant to s. 408.815, F.S., which includes false representation; intentional or negligent acts affecting a client; demonstrated pattern of deficient performance; or being excluded, suspended, or terminated from participation in any state's Medicaid program or Medicare.

This section also authorizes a licensee that holds a license for multiple providers licensed by the agency to request alignment of all license expiration dates. In order to accomplish this, the agency is authorized to issue a license for an abbreviated licensure period with a prorated licensure fee.

Section 57 amends s. 408.810, F.S., to exempt an applicant for a change of ownership from submitting proof of financial ability to operate if the provider has been licensed for at least five years and the change is the result of a corporate reorganization under which the controlling interest is unchanged or solely due to the death of a controlling interest, and the surviving controlling interest continue to hold at least 51 percent of the ownership.

The agency is authorized to adopt rules to address the circumstances under which a controlling interest, an administrator, an employee, a contractor, or a representative thereof who is not a relative of the patient or client may act as a legal representative, agent, health care surrogate, power of attorney, or guardian of a patient or client. According to the agency, licensure regulations are currently inconsistent in this area. Due to the vulnerability of persons receiving health or custodial care, allowing the paid caregiver to control finances or health care decisions of the patient can result in exploitation or abuse. In some cases, the facility has a surety bond, but this is not required for all provider types.¹⁸

Section 58 amends s. 408.812, F.S., relating to unlicensed activity, to provide that unlicensed activity constitutes abuse and neglect, as defined in s. 415.102, F.S.¹⁹ This section eliminates the requirement that a person or entity must apply for a license after receiving notification from the agency that the person or entity is engaging in unlicensed activity. If a controlling interest or licensee has more than one provider and fails to license all providers that require licensure, the agency may impose a fine, regardless of correction, as one of the authorized sanctions.

Subscriber Assistance Program

Section 53 of the bill repeals s. 408.7056, F.S., relating to the subscriber assistance program, effective January 1, 2018.

¹⁸ *Supra* note 6, pp. 6-7.

¹⁹ In summary, s. 415.102, F.S., defines "abuse" as any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health; and that abuse includes acts and omissions. "Neglect" is defined as the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult. Refer to s. 415.102(16), F.S., for additional acts that constitute neglect.

The subscriber assistance panel (SAP) was created in 1985 to assist members of managed care entities whose grievances or appeals were not satisfactorily resolved by the managed care entity upon exhaustion of the managed care entity's internal grievance and appeal process. Under the federal Patient Protection and Affordable Care Act (PPACA),²⁰ managed care entities were given an option to either comply with the state's external review requirement or opt-out and participate in the federal external review program. The majority of health plans in Florida elected to use the federal program and the SAP program experienced a significant decrease in the number of cases being reviewed by the panel.²¹

The SAP is currently available to members of managed care entities with coverage by: Statewide Medicaid Managed Care, Healthy Kids, Prepaid Health Clinics, or grandfathered policies²² that have not elected to have all of their health insurance policies subject to an external review process by independent review organization(s). Medicaid recipients in managed care can file for an external review through a Medicaid Fair Hearing and members with grandfathered commercial policies may appeal through independent review organizations.²³

Repeal of the SAP eliminates this program as an external appeal option for members in Healthy Kids and Prepaid Health Clinics, although according to the agency, no Prepaid Health Clinic members have used the SAP. At this time, these members do not have another avenue in which to file an external appeal.²⁴

Conforming amendments:

- Sections 2, 3, 4, 85, and 87 amend ss. 220.1845, 376.30781, 376.86, 641.51, and 641.515, F.S., respectively, to strike a cross-reference to s. 408.7056, F.S., to conform those provisions to repeal of the subscriber assistance program.
- Sections 79, 81, and 83 amend ss. 627.602, 627.6531, and 641.312, F.S., respectively, to delete an exemption for a health insurance policy, group health insurance policy, and health maintenance organization (HMO) contract that is subject to the subscriber assistance program.
- Section 82 amends s. 641.185, F.S., to remove a principle concerning regulatory oversight by various state entities relating to an HMO's expedited review of unresolved grievances pursuant to the subscriber assistance program.

²⁰ Pub. Law No. 111-148 (Mar. 23, 2010) amended by Pub. Law. No. 111-152 (Mar. 30, 2010).

²¹ According to the agency, between FY 2011-2012 and FY 2012-2013, when the majority of plans opted to use the federal external review program, the number of cases received by the SAP dropped from 415 to 213. The number of cases heard by the SAP dropped from 74 to 17. There has been an uptick in both number of cases received by the subscriber assistance program and the number of cases heard by the panel for FY 2014-2015 and FY 2015-2016, with the latest full year of data showing 350 cases received and 53 cases heard. The predominant outcome of the cases in FY 2015-2016 was a determination of non-jurisdiction (#221), followed by submission of an incomplete application (#31) and found in favor of the subscriber (#27). See the chart prepared by the agency for activity since FY 2009-2010 at *supra* note 4, p. 7.

²² A grandfathered health plan is a plan that existed on March 23, 2010, the date that the PPACA was enacted, and that at least one person had been continuously covered for 1 year. Plans or policies may lose their "grandfathered" status if they make certain significant changes that reduce benefits or increase costs to consumers. See Healthcare.gov, *Grandfathered Health Plans*, <https://www.healthcare.gov/glossary/grandfathered-health-plan/> (last visited Mar. 23, 2017).

²³ *Supra* note 6, p. 7.

²⁴ *Id.*

- Section 84 amends s. 641.3154, F.S., to remove reference to an action after a recommendation is made by the SAP.
- Section 86 amends s. 641.511, F.S., relating to HMOs, to remove notice requirements to subscribers regarding the subscriber assistance program and authorizations for a subscriber to submit a grievance to the subscriber assistance program. This section also repeals a requirement for the HMO to maintain records of all grievances and report annually to the agency the total number of grievances handled, a categorization of the cases underlying the grievance, and the final disposition of the grievances.

Managed Care Ombudsman Committees

The Statewide Managed Care Ombudsman Committee (statewide committee) and the district managed care ombudsman committees (district committees) were established in 1996.²⁵ The statewide committee is created within the agency as a consumer protection and advocacy organization on behalf of managed care subscribers. The statewide committee has administrative authority over the district committees and consists of the chairpersons of the district committees.

A district committee is created in s. 641.65, F.S., in each district of the agency that has staff assigned for the regulation of managed care programs. Each district committee must have no fewer than nine members or more than 16 members, including at least four physicians, one licensed under chs. 458, 459, 460, and 461; one psychologist; one registered nurse; one clinical social worker; one attorney; and one consumer.²⁶

According to the agency, due to the very stringent committee composition requirements, the majority of districts could not form district committees. The first committee was established in 1999 and only three other districts were able to meet committee requirements. The last activity on record was in 2010 and there are currently no active committees.²⁷

Section 89 repeals s. 641.60, F.S., which authorizes the Statewide Managed Care Ombudsman Council.

Conforming amendments:

- Section 90 amends s. 641.70, F.S., relating to district managed care ombudsman committees, to remove all references to the statewide Managed Care Ombudsman Council.
- Section 91 amends s. 641.75, F.S., to conform cross-references to the repeal of s. 641.60, F.S.

Obsolete and Miscellaneous Provisions

Section 9 repeals s. 383.335, F.S., to remove a birth center exemption to one aspect of licensure for providers in existence over 30 years ago. Currently, no providers meet this exemption.²⁸

Conforming Amendment:

²⁵ Chapter 96-391, L.O.F.

²⁶ Section 641.65(2), F.S.

²⁷ *Supra* note 6, p. 8.

²⁸ *Supra* note 6, p. 10.

- Section 47 amends s. 400.9905, F.S., relating to health care clinics to correct the cross-reference to statutes affecting birth centers.

Section 50 amends s. 408.061, F.S., relating to data collection by the agency from health care facilities, to conform cross-references and to exclude hospitals operated by state agencies from the requirement to submit certain financial reports.

The effective date of the bill is July 1, 2017, except as otherwise expressly provided in the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Repealing the licensure requirement for health care risk managers will save each risk manager the cost of the licensure fee, which is \$104.54 for initial applicants and \$52.78 for renewal applicants.²⁹

Repealing clinical laboratory licensure will save each clinical laboratory that was required to be licensed and is accredited \$100 biennially. If not accredited, the fee is between \$400 - \$3,919 biennially, depending upon the annual volume of non-waived tests performed.³⁰

²⁹ See the Application checklist available at:

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/risk_manager.shtml (last visited Mar. 24, 2017).

³⁰ See AHCA Clinical laboratory fees, available at:

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Laboratory_Licensure/fees.shtml (last visited Mar. 24, 2017).

C. Government Sector Impact:

The AHCA expects a reduction in revenue related to risk manager application fees (approximately \$64,866 per year), and for laboratory licensure application fees (\$1,383,400 per year). The total revenue reduction is approximately \$1,448,266 annually.

VI. Technical Deficiencies:

The bill repeals the Board of Clinical Laboratory Personnel within the DOH, authorized by s. 20.43(3)(g)22, F.S. However, section 17 creates a new section of law, s. 395.0091, relating to alternate-site testing, that requires the agency, acting in consultation with the Board of Clinical Laboratory Personnel, to adopt rules pertaining to alternate-site testing.

Section 34 amends s. 400.0625, F.S., to require all clinical laboratory tests performed for a nursing home to be performed by a licensed clinical laboratory with certain exceptions. Given the repeal of clinical laboratory licensure in section 72, and the corresponding substitution of CMS-issued certificates under CLIA, an amendment might be needed for clarity.

Section 56 amends s. 408.806, F.S., relating to the license application process. The new language in the bill for subsection (1) refers to a licensee. For an initial application, a license has not yet been issued. It may be appropriate to assign the responsibilities to the applicant.

Section 89 of the bill repeals the Statewide Managed Care Ombudsman Committee but fails to conform references to the statewide committee in ss. 641.65 and 641.75(1) and (2), F.S.

VII. Related Issues:

Section 86 amends s. 641.511, F.S., relating to HMOs. Among other things, it eliminates a requirement for the HMO to maintain records of all grievances and report annually to the agency the total number of grievances handled, a categorization of the cases underlying the grievance, and the final disposition of the grievances. Eliminating this provision may be overly broad, if a similar recordkeeping/reporting provision does not exist, because it is not apparent how regulators could monitor subscriber grievances.

The bill repeals the Statewide Managed Care Ombudsman Committee but does not eliminate the district managed care ombudsman committees. District committees have not been established in most of the districts and no committees have been active since 2010. Other resources exist for protecting the rights of subscribers in managed care plans. For example, the Office of the Insurance Consumer Advocate is established in s. 627.0613, F.S., to represent subscribers as appropriate.³¹ Eliminating the district committees or revising their structure might also be considered.

³¹ See also The Office of the Insurance Consumer Advocate Overview website: <http://www.myfloridacfo.com/division/ICA/Overview.htm> (last visited March 23, 2017).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.43, 220.1845, 376.30781, 376.86, 381.0031, 381.0034, 381.004, 383.313, 384.31, 385.211, 394.4787, 395.001, 395.002, 395.003, 395.009, 395.0161, 395.0163, 395.0197, 395.1055, 395.10973, 395.602, 395.603, 395.701, 395.7015, 400.0625, 400.464, 400.471, 400.474, 400.476, 400.484, 400.497, 400.506, 400.606, 400.925, 400.931, 400.933, 400.980, 400.9905, 408.033, 408.036, 408.061, 408.07, 408.20, 408.802, 408.803, 408.806, 408.810, 408.812, 408.820, 409.905, 409.9116, 409.975, 429.02, 429.04, 429.08, 429.176, 429.41, 456.001, 456.057, 458.307, 458.345, 483.294, 483.801, 483.803, 483.813, 491.003, 627.351, 627.602, 627.64194, 627.6513, 641.185, 641.312, 641.3154, 641.51, 641.511, 641.515, 641.55, 641.70, 641.75, 766.118, 766.202, 945.36, and 1009.65.

This bill creates section 395.0091 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 383.335, 395.1046, 395.10971, 395.10972, 395.10974, 395.10975, 395.604, 395.605, 408.7056, 483.011, 483.021, 483.031, 483.035, 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172, 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, 483.26, and 641.60.

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

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

None.

B. Amendments:

None.

By Senator Grimsley

26-00433-17

20171760__

1 A bill to be entitled
 2 An act relating to health care facility regulation;
 3 amending ss. 381.0031, 381.004, 384.31, 395.009, and
 4 409.905, F.S.; eliminating state licensure
 5 requirements for clinical laboratories; requiring
 6 clinical laboratories to be federally certified;
 7 amending s. 383.313, F.S.; revising requirements for a
 8 birth center to perform certain laboratory tests;
 9 repealing s. 383.335, F.S., relating to partial
 10 exemptions from licensure requirements for certain
 11 facilities that provide obstetrical and gynecological
 12 surgical services; amending s. 395.002, F.S.; revising
 13 and deleting definitions; creating s. 395.0091, F.S.;
 14 authorizing the Agency for Health Care Administration
 15 to adopt rules establishing criteria for alternate-
 16 site laboratory testing; defining the term "alternate-
 17 site testing"; amending ss. 395.0161 and 395.0163,
 18 F.S.; deleting licensure and inspection requirements
 19 for mobile surgical facilities to conform to changes
 20 made by the act; amending s. 395.0197, F.S.; requiring
 21 the manager of a hospital or ambulatory surgical
 22 center internal risk management program to demonstrate
 23 competence in certain administrative and health care
 24 service areas; conforming references; repealing s.
 25 395.1046, F.S., relating to hospital complaint
 26 investigation procedures; amending s. 395.1055, F.S.;
 27 requiring hospitals providing specified services to
 28 meet agency licensure requirements; conforming a
 29 reference; repealing ss. 395.10971 and 395.10972,

Page 1 of 94

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26-00433-17

20171760__

30 F.S., relating to the purpose and establishment of the
 31 Health Care Risk Manager Advisory Council; amending s.
 32 395.10973, F.S.; deleting duties of the agency
 33 relating to health care risk managers; repealing s.
 34 395.10974, F.S., relating to licensure of health care
 35 risk managers; repealing s. 395.10975, F.S., relating
 36 to grounds for denial, suspension, or revocation of a
 37 health care risk manager's license; amending s.
 38 395.602, F.S.; deleting definitions; amending s.
 39 395.603, F.S.; deleting provisions relating to
 40 deactivation of general hospital beds by certain rural
 41 and emergency care hospitals; repealing s. 395.604,
 42 F.S., relating to other rural hospital programs;
 43 repealing s. 395.605, F.S., relating to emergency care
 44 hospitals; amending s. 395.701, F.S.; revising the
 45 definition of the term "hospital" to exclude hospitals
 46 operated by state agencies; amending s. 400.464, F.S.;
 47 revising licensure requirements for a home health
 48 agency; providing conditions for advertising certain
 49 services that require licensure; providing for a fine;
 50 providing conditions for application for a certificate
 51 of exemption from licensure as a home health agency;
 52 specifying the duration of the certificate of
 53 exemption; authorizing a fee; amending s. 400.471,
 54 F.S.; revising home health agency licensure
 55 requirements; providing requirements for proof of
 56 accreditation for home health agencies applying for
 57 change of ownership or addition of skilled care
 58 services; amending s. 400.474, F.S.; revising

Page 2 of 94

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26-00433-17

20171760__

59 conditions for the imposition of a fine against a home
 60 health agency; amending s. 400.476, F.S.; requiring a
 61 home health agency providing skilled nursing care to
 62 have a director of nursing; amending s. 400.484, F.S.;
 63 providing for the imposition of administrative fines
 64 on home health agencies for specified classes of
 65 violations; amending s. 400.497, F.S.; authorizing the
 66 agency to adopt rules establishing standards for
 67 certificate of exemption applications; amending s.
 68 400.506, F.S.; revising penalties for a nurse registry
 69 directed by the agency to cease operation; providing
 70 that registered nurses, licensed practical nurses,
 71 certified nursing assistants, companions or
 72 homemakers, and home health aides are independent
 73 contractors and not employees of the nurse registries
 74 that referred them; requiring a nurse registry to
 75 inform the patient, the patient's family, or a person
 76 acting on behalf of the patient that the referred
 77 caregiver is an independent contractor and that the
 78 nurse registry is not permitted to monitor, supervise,
 79 manage, or train the referred caregiver; revising
 80 provisions relating to activities for which the agency
 81 is authorized to deny, suspend, or revoke a nurse
 82 registry license and impose fines; providing that a
 83 nurse registry is not permitted to review or act upon
 84 certain records except under certain circumstances;
 85 amending s. 400.606, F.S.; revising content
 86 requirements of the plan accompanying an initial or
 87 change of ownership application for a hospice;

Page 3 of 94

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26-00433-17

20171760__

88 amending s. 400.925, F.S.; revising the definition of
 89 the term "home medical equipment"; amending s.
 90 400.931, F.S.; providing a timeframe for a home
 91 medical equipment provider to notify the agency of
 92 certain personnel changes; amending s. 400.933, F.S.;
 93 authorizing the agency to accept certain medical
 94 oxygen permits issued by the Department of Business
 95 and Professional Regulation in lieu of agency
 96 licensure inspections; amending s. 400.980, F.S.;
 97 revising timeframe requirements for change of
 98 registration information submitted to the agency by a
 99 health care services pool; amending s. 408.061, F.S.;
 100 excluding hospitals operated by state agencies from
 101 certain financial reporting requirements; conforming a
 102 cross-reference; amending s. 408.07, F.S.; deleting
 103 the definition of the term "clinical laboratory";
 104 amending s. 408.20, F.S.; exempting hospitals operated
 105 by state agencies from assessments against the Health
 106 Care Trust Fund to fund certain agency activities;
 107 repealing s. 408.7056, F.S., relating to the
 108 Subscriber Assistance Program; amending s. 408.803,
 109 F.S.; defining the term "relative" for the Health Care
 110 Licensing Procedures Act; amending s. 408.806, F.S.;
 111 requiring additional information on a licensure
 112 application; authorizing the agency to issue licenses
 113 with an abbreviated licensure period and prorated fee
 114 for alignment of multiple provider license expiration
 115 dates; amending s. 408.810, F.S.; exempting an
 116 applicant for change of ownership from furnishing

Page 4 of 94

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26-00433-17

20171760__

117 proof of ability to operate under certain conditions;
 118 authorizing the agency to adopt rules governing
 119 circumstances under which a controlling interest may
 120 act in certain legal capacities on behalf of a patient
 121 or client; amending s. 408.812, F.S.; citing failure
 122 to discharge residents by the license expiration date
 123 as unlicensed activity; providing that certain
 124 unlicensed activity by a provider constitutes abuse
 125 and neglect; requiring the agency to refer certain
 126 findings to the state attorney; requiring the agency
 127 to impose a fine under certain circumstances; amending
 128 s. 429.02, F.S.; revising definitions; amending s.
 129 429.04, F.S.; providing additional exemptions from
 130 licensure as an assisted living facility; imposing a
 131 burden of proof on the person or entity asserting the
 132 exemption; providing applicability; amending s.
 133 429.08, F.S.; providing criminal penalties and fines
 134 for ownership, rental, or maintenance of a real
 135 property used as an unlicensed assisted living
 136 facility; providing that engaging a third party to
 137 provide certain services at an unlicensed location
 138 constitutes unlicensed activity; amending s. 429.176,
 139 F.S.; prohibiting an assisted living facility from
 140 operating beyond a specified period without an
 141 administrator who has completed certain educational
 142 requirements; amending s. 429.41, F.S.; prohibiting an
 143 assisted living facility from providing personal
 144 services to nonresidents; repealing part I of ch. 483,
 145 F.S., relating to clinical laboratories; amending s.

Page 5 of 94

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26-00433-17

20171760__

146 483.294, F.S.; revising agency inspection schedules
 147 for multiphasic health testing centers; amending s.
 148 483.801, F.S.; revising an exemption from regulation
 149 for persons employed by certain laboratories; amending
 150 s. 483.803, F.S.; deleting definitions; conforming
 151 provisions to changes made by the act; amending s.
 152 641.511, F.S.; revising health maintenance
 153 organization subscriber grievance reporting
 154 requirements; repealing s. 641.60, F.S., relating to
 155 the Statewide Managed Care Ombudsman Committee;
 156 amending s. 945.36, F.S.; authorizing law enforcement
 157 personnel to conduct drug tests on certain inmates and
 158 releasees; amending ss. 20.43, 220.1845, 376.30781,
 159 376.86, 381.0034, 385.211, 394.4787, 395.001, 395.003,
 160 395.7015, 400.0625, 400.9905, 408.033, 408.036,
 161 408.802, 408.820, 409.9116, 409.975, 456.001, 456.057,
 162 458.307, 458.345, 483.813, 491.003, 627.351, 627.602,
 163 627.64194, 627.6513, 641.185, 641.312, 641.3154,
 164 641.51, 641.515, 641.55, 641.70, 641.75, 766.118,
 165 766.202, and 1009.65, F.S.; conforming provisions to
 166 changes made by the act; providing effective dates.

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

169
 170 Section 1. Paragraph (g) of subsection (3) of section
 171 20.43, Florida Statutes, is amended to read:

172 20.43 Department of Health.—There is created a Department
 173 of Health.

174 (3) The following divisions of the Department of Health are

Page 6 of 94

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26-00433-17 20171760__

175 established:

176 (g) Division of Medical Quality Assurance, which is

177 responsible for the following boards and professions established

178 within the division:

179 1. The Board of Acupuncture, created under chapter 457.

180 2. The Board of Medicine, created under chapter 458.

181 3. The Board of Osteopathic Medicine, created under chapter

182 459.

183 4. The Board of Chiropractic Medicine, created under

184 chapter 460.

185 5. The Board of Podiatric Medicine, created under chapter

186 461.

187 6. Naturopathy, as provided under chapter 462.

188 7. The Board of Optometry, created under chapter 463.

189 8. The Board of Nursing, created under part I of chapter

190 464.

191 9. Nursing assistants, as provided under part II of chapter

192 464.

193 10. The Board of Pharmacy, created under chapter 465.

194 11. The Board of Dentistry, created under chapter 466.

195 12. Midwifery, as provided under chapter 467.

196 13. The Board of Speech-Language Pathology and Audiology,

197 created under part I of chapter 468.

198 14. The Board of Nursing Home Administrators, created under

199 part II of chapter 468.

200 15. The Board of Occupational Therapy, created under part

201 III of chapter 468.

202 16. Respiratory therapy, as provided under part V of

203 chapter 468.

Page 7 of 94

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26-00433-17 20171760__

204 17. Dietetics and nutrition practice, as provided under

205 part X of chapter 468.

206 18. The Board of Athletic Training, created under part XIII

207 of chapter 468.

208 19. The Board of Orthotists and Prosthetists, created under

209 part XIV of chapter 468.

210 20. Electrolysis, as provided under chapter 478.

211 21. The Board of Massage Therapy, created under chapter

212 480.

213 ~~22. The Board of Clinical Laboratory Personnel, created~~

214 ~~under part III of chapter 483.~~

215 22.23. Medical physicists, as provided under part III ~~IV~~ of

216 chapter 483.

217 23.24. The Board of Opticianry, created under part I of

218 chapter 484.

219 24.25. The Board of Hearing Aid Specialists, created under

220 part II of chapter 484.

221 25.26. The Board of Physical Therapy Practice, created

222 under chapter 486.

223 26.27. The Board of Psychology, created under chapter 490.

224 27.28. School psychologists, as provided under chapter 490.

225 28.29. The Board of Clinical Social Work, Marriage and

226 Family Therapy, and Mental Health Counseling, created under

227 chapter 491.

228 29.30. Emergency medical technicians and paramedics, as

229 provided under part III of chapter 401.

230 Section 2. Paragraph (k) of subsection (2) of section

231 220.1845, Florida Statutes, is amended to read:

232 220.1845 Contaminated site rehabilitation tax credit.—

Page 8 of 94

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26-00433-17

20171760__

(2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(k) In order to encourage the construction and operation of a new health care facility as defined in s. 408.032 or s. 408.07, or a health care provider as defined in s. 408.07 ~~or s. 408.7056~~, on a brownfield site, an applicant for a tax credit may claim an additional 25 percent of the total site rehabilitation costs, not to exceed \$500,000, if the applicant meets the requirements of this paragraph. In order to receive this additional tax credit, the applicant must provide documentation indicating that the construction of the health care facility or health care provider by the applicant on the brownfield site has received a certificate of occupancy or a license or certificate has been issued for the operation of the health care facility or health care provider.

Section 3. Paragraph (f) of subsection (3) of section 376.30781, Florida Statutes, is amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(3)

(f) In order to encourage the construction and operation of a new health care facility or a health care provider, as defined in s. 408.032 or s. 408.07, ~~or s. 408.7056~~, on a brownfield site, an applicant for a tax credit may claim an additional 25 percent of the total site rehabilitation costs, not to exceed \$500,000, if the applicant meets the requirements of this paragraph. In order to receive this additional tax credit, the applicant must provide documentation indicating that the

26-00433-17

20171760__

construction of the health care facility or health care provider by the applicant on the brownfield site has received a certificate of occupancy or a license or certificate has been issued for the operation of the health care facility or health care provider.

Section 4. Subsection (1) of section 376.86, Florida Statutes, is amended to read:

376.86 Brownfield Areas Loan Guarantee Program.—

(1) The Brownfield Areas Loan Guarantee Council is created to review and approve or deny, by a majority vote of its membership, the situations and circumstances for participation in partnerships by agreements with local governments, financial institutions, and others associated with the redevelopment of brownfield areas pursuant to the Brownfields Redevelopment Act for a limited state guaranty of up to 5 years of loan guarantees or loan loss reserves issued pursuant to law. The limited state loan guaranty applies only to 50 percent of the primary lenders loans for redevelopment projects in brownfield areas. If the redevelopment project is for affordable housing, as defined in s. 420.0004, in a brownfield area, the limited state loan guaranty applies to 75 percent of the primary lender's loan. If the redevelopment project includes the construction and operation of a new health care facility or a health care provider, as defined in s. 408.032 or s. 408.07, ~~or s. 408.7056~~, on a brownfield site and the applicant has obtained documentation in accordance with s. 376.30781 indicating that the construction of the health care facility or health care provider by the applicant on the brownfield site has received a certificate of occupancy or a license or certificate has been

26-00433-17 20171760

issued for the operation of the health care facility or health care provider, the limited state loan guaranty applies to 75 percent of the primary lender's loan. A limited state guaranty of private loans or a loan loss reserve is authorized for lenders licensed to operate in the state upon a determination by the council that such an arrangement would be in the public interest and the likelihood of the success of the loan is great.

Section 5. Subsection (2) of section 381.0031, Florida Statutes, is amended to read:

381.0031 Epidemiological research; report of diseases of public health significance to department.—

(2) Any practitioner licensed in this state to practice medicine, osteopathic medicine, chiropractic medicine, naturopathy, or veterinary medicine; any hospital licensed under part I of chapter 395; or any laboratory appropriately certified by the Centers for Medicare and Medicaid Services (CMS) under the federal Clinical Laboratory Improvement Amendments of 1988 ~~licensed under chapter 483~~ that diagnoses or suspects the existence of a disease of public health significance shall immediately report the fact to the Department of Health.

Section 6. Subsection (3) of section 381.0034, Florida Statutes, is amended to read:

381.0034 Requirement for instruction on HIV and AIDS.—

(3) The department shall require, as a condition of granting a license under chapter 467 or part II ~~III~~ of chapter 483, that an applicant making initial application for licensure complete an educational course acceptable to the department on human immunodeficiency virus and acquired immune deficiency syndrome. Upon submission of an affidavit showing good cause, an

26-00433-17 20171760

applicant who has not taken a course at the time of licensure shall be allowed 6 months to complete this requirement.

Section 7. Paragraph (c) of subsection (4) of section 381.004, Florida Statutes, is amended to read:

381.004 HIV testing.—

(4) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS; REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM REGISTRATION.—No county health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immune deficiency syndrome or human immunodeficiency virus status without first registering with the Department of Health, reregistering each year, complying with all other applicable provisions of state law, and meeting the following requirements:

(c) The program shall have all laboratory procedures performed in a laboratory appropriately certified by the Centers for Medicare and Medicaid Services (CMS) under the federal Clinical Laboratory Improvement Amendments of 1988 ~~licensed under the provisions of chapter 483~~.

Section 8. Subsection (1) of section 383.313, Florida Statutes, is amended to read:

383.313 Performance of laboratory and surgical services; use of anesthetic and chemical agents.—

(1) LABORATORY SERVICES.—A birth center may collect specimens for those tests that are requested under protocol. A birth center may perform simple laboratory tests, as defined by rule of the agency, and is exempt from the requirements of chapter 483, ~~provided no more than five physicians are employed by the birth center and testing is conducted exclusively in~~

26-00433-17 20171760

~~connection with the diagnosis and treatment of clients of the birth center.~~

Section 9. Section 383.335, Florida Statutes, is repealed.

Section 10. Section 384.31, Florida Statutes, is amended to read:

384.31 Testing of pregnant women; duty of the attendant.— Every person, including every physician licensed under chapter 458 or chapter 459 or midwife licensed under part I of chapter 464 or chapter 467, attending a pregnant woman for conditions relating to pregnancy during the period of gestation and delivery shall cause the woman to be tested for sexually transmissible diseases, including HIV, as specified by department rule. Testing shall be performed by a laboratory appropriately certified by the Centers for Medicare and Medicaid Services (CMS) under the federal Clinical Laboratory Improvement Amendments of 1988 ~~approved~~ for such purposes ~~under part I of chapter 483.~~ The woman shall be informed of the tests that will be conducted and of her right to refuse testing. If a woman objects to testing, a written statement of objection, signed by the woman, shall be placed in the woman's medical record and no testing shall occur.

Section 11. Subsection (2) of section 385.211, Florida Statutes, is amended to read:

385.211 Refractory and intractable epilepsy treatment and research at recognized medical centers.—

(2) Notwithstanding chapter 893, medical centers recognized pursuant to s. 381.925, or an academic medical research institution legally affiliated with a licensed children's specialty hospital as defined in s. 395.002(27) ~~395.002(28)~~ that

26-00433-17 20171760

contracts with the Department of Health, may conduct research on cannabidiol and low-THC cannabis. This research may include, but is not limited to, the agricultural development, production, clinical research, and use of liquid medical derivatives of cannabidiol and low-THC cannabis for the treatment for refractory or intractable epilepsy. The authority for recognized medical centers to conduct this research is derived from 21 C.F.R. parts 312 and 316. Current state or privately obtained research funds may be used to support the activities described in this section.

Section 12. Subsection (7) of section 394.4787, Florida Statutes, is amended to read:

394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and 394.4789.—As used in this section and ss. 394.4786, 394.4788, and 394.4789:

(7) "Specialty psychiatric hospital" means a hospital licensed by the agency pursuant to s. 395.002(27) ~~395.002(28)~~ and part II of chapter 408 as a specialty psychiatric hospital.

Section 13. Section 395.001, Florida Statutes, is amended to read:

395.001 Legislative intent.—It is the intent of the Legislature to provide for the protection of public health and safety in the establishment, construction, maintenance, and operation of hospitals ~~and, ambulatory surgical centers, and mobile surgical facilities~~ by providing for licensure of same and for the development, establishment, and enforcement of minimum standards with respect thereto.

Section 14. Present subsections (22) through (33) of section 395.002, Florida Statutes, are renumbered as subsections

26-00433-17 20171760__

(21) through (32), respectively, and subsections (3) and (16) and present subsections (21) and (23) of that section are amended, to read:

395.002 Definitions.—As used in this chapter:

(3) "Ambulatory surgical center" ~~or "mobile surgical facility"~~ means a facility the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within the same working day and is not permitted to stay overnight, and which is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy, an office maintained by a physician for the practice of medicine, or an office maintained for the practice of dentistry shall not be construed to be an ambulatory surgical center, provided that any facility or office which is certified or seeks certification as a Medicare ambulatory surgical center shall be licensed as an ambulatory surgical center pursuant to s. 395.003. ~~Any structure or vehicle in which a physician maintains an office and practices surgery, and which can appear to the public to be a mobile office because the structure or vehicle operates at more than one address, shall be construed to be a mobile surgical facility.~~

(16) "Licensed facility" means a hospital or, ambulatory surgical center, ~~or mobile surgical facility~~ licensed in accordance with this chapter.

~~(21) "Mobile surgical facility" is a mobile facility in which licensed health care professionals provide elective surgical care under contract with the Department of Corrections or a private correctional facility operating pursuant to chapter~~

26-00433-17 20171760__

~~957 and in which inmate patients are admitted to and discharged from said facility within the same working day and are not permitted to stay overnight. However, mobile surgical facilities may only provide health care services to the inmate patients of the Department of Corrections, or inmate patients of a private correctional facility operating pursuant to chapter 957, and not to the general public.~~

~~(22)(23)~~ "Premises" means those buildings, beds, and equipment located at the address of the licensed facility and all other buildings, beds, and equipment for the provision of hospital or, ambulatory surgical, ~~or mobile surgical~~ care located in such reasonable proximity to the address of the licensed facility as to appear to the public to be under the dominion and control of the licensee. For any licensee that is a teaching hospital as defined in s. 408.07(44) ~~408.07(45)~~, reasonable proximity includes any buildings, beds, services, programs, and equipment under the dominion and control of the licensee that are located at a site with a main address that is within 1 mile of the main address of the licensed facility; and all such buildings, beds, and equipment may, at the request of a licensee or applicant, be included on the facility license as a single premises.

Section 15. Paragraphs (a) and (b) of subsection (1) and paragraph (b) of subsection (2) of section 395.003, Florida Statutes, are amended to read:

395.003 Licensure; denial, suspension, and revocation.—

(1) (a) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to ss. 395.001-395.1065 and part II of chapter 408 and to entities

26-00433-17

20171760

licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to ss. 395.001-395.1065. A license issued by the agency is required in order to operate a hospital ~~or~~, ambulatory surgical center, ~~or mobile surgical facility~~ in this state.

(b)1. It is unlawful for a person to use or advertise to the public, in any way or by any medium whatsoever, any facility as a "hospital," ~~or "ambulatory surgical center," or "mobile surgical facility"~~ unless such facility has first secured a license under the provisions of this part.

2. This part does not apply to veterinary hospitals or to commercial business establishments using the word "hospital" ~~or "ambulatory surgical center," or "mobile surgical facility"~~ as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

(2)

(b) The agency shall, at the request of a licensee that is a teaching hospital as defined in s. ~~408.07(44)~~ ~~408.07(45)~~, issue a single license to a licensee for facilities that have been previously licensed as separate premises, provided such separately licensed facilities, taken together, constitute the same premises as defined in s. 395.002(22) ~~395.002(23)~~. Such license for the single premises shall include all of the beds, services, and programs that were previously included on the licenses for the separate premises. The granting of a single license under this paragraph shall not in any manner reduce the number of beds, services, or programs operated by the licensee.

Section 16. Subsection (1) of section 395.009, Florida Statutes, is amended to read:

Page 17 of 94

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

26-00433-17

20171760

395.009 Minimum standards for clinical laboratory test results and diagnostic X-ray results; prerequisite for issuance or renewal of license.—

(1) As a requirement for issuance or renewal of its license, each licensed facility shall require that all clinical laboratory tests performed by or for the licensed facility be performed by a clinical laboratory appropriately certified by the Centers for Medicare and Medicaid Services (CMS) under the federal Clinical Laboratory Improvement Amendments of 1988 licensed under the provisions of chapter 483.

Section 17. Section 395.0091, Florida Statutes, is created to read:

395.0091 Alternate-site testing.—The agency, in consultation with the Board of Clinical Laboratory Personnel, shall adopt by rule the criteria for alternate-site testing to be performed under the supervision of a clinical laboratory director. The elements to be addressed in the rule include, but are not limited to: a hospital internal needs assessment; a protocol of implementation, including tests to be performed and who will perform the tests; criteria to be used in selecting the method of testing to be used for alternate-site testing; minimum training and education requirements for those who will perform alternate-site testing, such as documented training, licensure, certification, or other medical professional backgrounds not limited to laboratory professionals; documented inservice training as well as initial and ongoing competency validation; an appropriate internal and external quality control protocol; an internal mechanism for identifying and tracking alternate-site testing by the central laboratory; and recordkeeping

Page 18 of 94

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

26-00433-17 20171760

523 requirements. Alternate-site testing locations must register
 524 when the hospital applies to renew its license. For purposes of
 525 this section, the term "alternate-site testing" means any
 526 laboratory testing done under the administrative control of a
 527 hospital but performed out of the physical or administrative
 528 confines of the central laboratory.

529 Section 18. Paragraph (f) of subsection (1) of section
 530 395.0161, Florida Statutes, is amended to read:

531 395.0161 Licensure inspection.—

532 (1) In addition to the requirement of s. 408.811, the
 533 agency shall make or cause to be made such inspections and
 534 investigations as it deems necessary, including:

535 ~~(f) Inspections of mobile surgical facilities at each time~~
 536 ~~a facility establishes a new location, prior to the admission of~~
 537 ~~patients. However, such inspections shall not be required when a~~
 538 ~~mobile surgical facility is moved temporarily to a location~~
 539 ~~where medical treatment will not be provided.~~

540 Section 19. Subsection (3) of section 395.0163, Florida
 541 Statutes, is amended to read:

542 395.0163 Construction inspections; plan submission and
 543 approval; fees.—

544 ~~(3) In addition to the requirements of s. 408.811, the~~
 545 ~~agency shall inspect a mobile surgical facility at initial~~
 546 ~~licensure and at each time the facility establishes a new~~
 547 ~~location, prior to admission of patients. However, such~~
 548 ~~inspections shall not be required when a mobile surgical~~
 549 ~~facility is moved temporarily to a location where medical~~
 550 ~~treatment will not be provided.~~

551 Section 20. Subsection (2), paragraph (c) of subsection

26-00433-17 20171760

552 (6), and subsections (16) and (17) of section 395.0197, Florida
 553 Statutes, are amended to read:

554 395.0197 Internal risk management program.—

555 (2) The internal risk management program is the
 556 responsibility of the governing board of the health care
 557 facility. Each licensed facility shall hire a risk manager,
 558 ~~licensed under s. 395.10974,~~ who is responsible for
 559 implementation and oversight of such facility's internal risk
 560 management program and who demonstrates competence, by education
 561 or experience, in the following areas: as required by this
 562 section. A risk manager must not be made responsible for more
 563 than four internal risk management programs in separate licensed
 564 facilities, unless the facilities are under one corporate
 565 ownership or the risk management programs are in rural
 566 hospitals.

567 (a) Applicable standards of health care risk management.

568 (b) Applicable federal, state, and local health and safety
 569 laws and rules.

570 (c) General risk management administration.

571 (d) Patient care.

572 (e) Medical care.

573 (f) Personal and social care.

574 (g) Accident prevention.

575 (h) Departmental organization and management.

576 (i) Community interrelationships.

577 (j) Medical terminology.

578 (6)

579 (c) The report submitted to the agency shall also contain
 580 the name ~~and license number~~ of the risk manager of the licensed

26-00433-17

20171760

581 facility, a copy of its policy and procedures which govern the
 582 measures taken by the facility and its risk manager to reduce
 583 the risk of injuries and adverse incidents, and the results of
 584 such measures. The annual report is confidential and is not
 585 available to the public pursuant to s. 119.07(1) or any other
 586 law providing access to public records. The annual report is not
 587 discoverable or admissible in any civil or administrative
 588 action, except in disciplinary proceedings by the agency or the
 589 appropriate regulatory board. The annual report is not available
 590 to the public as part of the record of investigation for and
 591 prosecution in disciplinary proceedings made available to the
 592 public by the agency or the appropriate regulatory board.
 593 However, the agency or the appropriate regulatory board shall
 594 make available, upon written request by a health care
 595 professional against whom probable cause has been found, any
 596 such records which form the basis of the determination of
 597 probable cause.

598 (16) There shall be no monetary liability on the part of,
 599 and no cause of action for damages shall arise against, any risk
 600 manager, ~~licensed under s. 395.10974,~~ for the implementation and
 601 oversight of the internal risk management program in a facility
 602 licensed under this chapter or chapter 390 as required by this
 603 section, for any act or proceeding undertaken or performed
 604 within the scope of the functions of such internal risk
 605 management program if the risk manager acts without intentional
 606 fraud.

607 (17) A privilege against civil liability is hereby granted
 608 to any ~~licensed~~ risk manager or licensed facility with regard to
 609 information furnished pursuant to this chapter, unless the

26-00433-17

20171760

610 ~~licensed~~ risk manager or facility acted in bad faith or with
 611 malice in providing such information.

612 Section 21. Section 395.1046, Florida Statutes, is
 613 repealed.

614 Section 22. Subsection (2) of section 395.1055, Florida
 615 Statutes, is amended, and paragraph (i) is added to subsection
 616 (1), to read:

617 395.1055 Rules and enforcement.—

618 (1) The agency shall adopt rules pursuant to ss. 120.536(1)
 619 and 120.54 to implement the provisions of this part, which shall
 620 include reasonable and fair minimum standards for ensuring that:

621 (i) All hospitals providing pediatric cardiac
 622 catheterization, pediatric open-heart surgery, organ
 623 transplantation, neonatal intensive care services, psychiatric
 624 services, or comprehensive medical rehabilitation meet the
 625 minimum licensure requirements adopted by the agency. Such
 626 licensure requirements shall include quality of care, nurse
 627 staffing, physician staffing, physical plant, equipment,
 628 emergency transportation, and data reporting standards.

629 (2) Separate standards may be provided for general and
 630 specialty hospitals, ambulatory surgical centers, ~~mobile~~
 631 ~~surgical facilities,~~ and statutory rural hospitals as defined in
 632 s. 395.602.

633 Section 23. Section 395.10971, Florida Statutes, is
 634 repealed.

635 Section 24. Section 395.10972, Florida Statutes, is
 636 repealed.

637 Section 25. Section 395.10973, Florida Statutes, is amended
 638 to read:

26-00433-17

20171760__

395.10973 Powers and duties of the agency.—It is the function of the agency to:

(1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part and part II of chapter 408 conferring duties upon it.

~~(2) Develop, impose, and enforce specific standards within the scope of the general qualifications established by this part which must be met by individuals in order to receive licenses as health care risk managers. These standards shall be designed to ensure that health care risk managers are individuals of good character and otherwise suitable and, by training or experience in the field of health care risk management, qualified in accordance with the provisions of this part to serve as health care risk managers, within statutory requirements.~~

~~(3) Develop a method for determining whether an individual meets the standards set forth in s. 395.10974.~~

~~(4) Issue licenses to qualified individuals meeting the standards set forth in s. 395.10974.~~

~~(5) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the agency to the effect that a certified health care risk manager has failed to comply with the requirements or standards adopted by rule by the agency or to comply with the provisions of this part.~~

~~(6) Establish procedures for providing periodic reports on persons certified or disciplined by the agency under this part.~~

(2)(7) Develop a model risk management program for health care facilities which will satisfy the requirements of s. 395.0197.

(3)(8) Enforce the special-occupancy provisions of the

26-00433-17

20171760__

Florida Building Code which apply to hospitals, intermediate residential treatment facilities, and ambulatory surgical centers in conducting any inspection authorized by this chapter and part II of chapter 408.

Section 26. Section 395.10974, Florida Statutes, is repealed.

Section 27. Section 395.10975, Florida Statutes, is repealed.

Section 28. Subsection (2) of section 395.602, Florida Statutes, is amended to read:

395.602 Rural hospitals.—

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

(a) "Emergency care hospital" means a medical facility which provides:

1. Emergency medical treatment; and

2. Inpatient care to ill or injured persons prior to their transportation to another hospital or provides inpatient medical care to persons needing care for a period of up to 96 hours. The 96-hour limitation on inpatient care does not apply to respite, skilled nursing, hospice, or other nonacute care patients.

(b) "Essential access community hospital" means any facility which:

1. ~~Has at least 100 beds;~~

2. ~~Is located more than 35 miles from any other essential access community hospital, rural referral center, or urban hospital meeting criteria for classification as a regional referral center;~~

3. ~~Is part of a network that includes rural primary care hospitals;~~

26-00433-17

20171760__

- 697 ~~4. Provides emergency and medical backup services to rural~~
 698 ~~primary care hospitals in its rural health network;~~
 699 ~~5. Extends staff privileges to rural primary care hospital~~
 700 ~~physicians in its network; and~~
 701 ~~6. Accepts patients transferred from rural primary care~~
 702 ~~hospitals in its network.~~
 703 ~~(e) "Inactive rural hospital bed" means a licensed acute~~
 704 ~~care hospital bed, as defined in s. 395.002(13), that is~~
 705 ~~inactive in that it cannot be occupied by acute care inpatients.~~
 706 (a)(d) "Rural area health education center" means an area
 707 health education center (AHEC), as authorized by Pub. L. No. 94-
 708 484, which provides services in a county with a population
 709 density of up to no greater than 100 persons per square mile.
 710 (b)(e) "Rural hospital" means an acute care hospital
 711 licensed under this chapter, having 100 or fewer licensed beds
 712 and an emergency room, which is:
 713 1. The sole provider within a county with a population
 714 density of up to 100 persons per square mile;
 715 2. An acute care hospital, in a county with a population
 716 density of up to 100 persons per square mile, which is at least
 717 30 minutes of travel time, on normally traveled roads under
 718 normal traffic conditions, from any other acute care hospital
 719 within the same county;
 720 3. A hospital supported by a tax district or subdistrict
 721 whose boundaries encompass a population of up to 100 persons per
 722 square mile;
 723 4. A hospital classified as a sole community hospital under
 724 42 C.F.R. s. 412.92 which has up to 175 licensed beds;
 725 5. A hospital with a service area that has a population of

26-00433-17

20171760__

- 726 up to 100 persons per square mile. As used in this subparagraph,
 727 the term "service area" means the fewest number of zip codes
 728 that account for 75 percent of the hospital's discharges for the
 729 most recent 5-year period, based on information available from
 730 the hospital inpatient discharge database in the Florida Center
 731 for Health Information and Transparency at the agency; or
 732 6. A hospital designated as a critical access hospital, as
 733 defined in s. 408.07.
 734
 735 Population densities used in this paragraph must be based upon
 736 the most recently completed United States census. A hospital
 737 that received funds under s. 409.9116 for a quarter beginning no
 738 later than July 1, 2002, is deemed to have been and shall
 739 continue to be a rural hospital from that date through June 30,
 740 2021, if the hospital continues to have up to 100 licensed beds
 741 and an emergency room. An acute care hospital that has not
 742 previously been designated as a rural hospital and that meets
 743 the criteria of this paragraph shall be granted such designation
 744 upon application, including supporting documentation, to the
 745 agency. A hospital that was licensed as a rural hospital during
 746 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
 747 rural hospital from the date of designation through June 30,
 748 2021, if the hospital continues to have up to 100 licensed beds
 749 and an emergency room.
 750 ~~(f) "Rural primary care hospital" means any facility~~
 751 ~~meeting the criteria in paragraph (e) or s. 395.605 which~~
 752 ~~provides:~~
 753 1. ~~Twenty-four hour emergency medical care;~~
 754 2. ~~Temporary inpatient care for periods of 72 hours or less~~

26-00433-17

20171760

to patients requiring stabilization before discharge or transfer to another hospital. The 72-hour limitation does not apply to respite, skilled nursing, hospice, or other nonacute care patients; and

~~3. Has no more than six licensed acute care inpatient beds.~~

(c)(g) "Swing-bed" means a bed which can be used interchangeably as either a hospital, skilled nursing facility (SNF), or intermediate care facility (ICF) bed pursuant to 42 C.F.R. parts 405, 435, 440, 442, and 447.

Section 29. Section 395.603, Florida Statutes, is amended to read:

395.603 ~~Deactivation of general hospital beds~~; Rural hospital impact statement.—

~~(1) The agency shall establish, by rule, a process by which a rural hospital, as defined in s. 395.602, that seeks licensure as a rural primary care hospital or as an emergency care hospital, or becomes a certified rural health clinic as defined in Pub. L. No. 95-210, or becomes a primary care program such as a county health department, community health center, or other similar outpatient program that provides preventive and curative services, may deactivate general hospital beds. Rural primary care hospitals and emergency care hospitals shall maintain the number of actively licensed general hospital beds necessary for the facility to be certified for Medicare reimbursement. Hospitals that discontinue inpatient care to become rural health care clinics or primary care programs shall deactivate all licensed general hospital beds. All hospitals, clinics, and programs with inactive beds shall provide 24-hour emergency medical care by staffing an emergency room. Providers with~~

26-00433-17

20171760

~~inactive beds shall be subject to the criteria in s. 395.1041. The agency shall specify in rule requirements for making 24-hour emergency care available. Inactive general hospital beds shall be included in the acute care bed inventory, maintained by the agency for certificate of need purposes, for 10 years from the date of deactivation of the beds. After 10 years have elapsed, inactive beds shall be excluded from the inventory. The agency shall, at the request of the licensee, reactivate the inactive general beds upon a showing by the licensee that licensure requirements for the inactive general beds are met.~~

~~(2)~~ In formulating and implementing policies and rules that may have significant impact on the ability of rural hospitals to continue to provide health care services in rural communities, the agency, the department, or the respective regulatory board adopting policies or rules regarding the licensure or certification of health care professionals shall provide a rural hospital impact statement. The rural hospital impact statement shall assess the proposed action in light of the following questions:

(1)(a) Do the health personnel affected by the proposed action currently practice in rural hospitals or are they likely to in the near future?

(2)(b) What are the current numbers of the affected health personnel in this state, their geographic distribution, and the number practicing in rural hospitals?

(3)(c) What are the functions presently performed by the affected health personnel, and are such functions presently performed in rural hospitals?

(4)(d) What impact will the proposed action have on the

26-00433-17

20171760__

813 ability of rural hospitals to recruit the affected personnel to
814 practice in their facilities?

815 ~~(5)(e)~~ What impact will the proposed action have on the
816 limited financial resources of rural hospitals through increased
817 salaries and benefits necessary to recruit or retain such health
818 personnel?

819 ~~(6)(f)~~ Is there a less stringent requirement which could
820 apply to practice in rural hospitals?

821 ~~(7)(g)~~ Will this action create staffing shortages, which
822 could result in a loss to the public of health care services in
823 rural hospitals or result in closure of any rural hospitals?

824 Section 30. Section 395.604, Florida Statutes, is repealed.

825 Section 31. Section 395.605, Florida Statutes, is repealed.

826 Section 32. Paragraph (c) of subsection (1) of section
827 395.701, Florida Statutes, is amended to read:

828 395.701 Annual assessments on net operating revenues for
829 inpatient and outpatient services to fund public medical
830 assistance; administrative fines for failure to pay assessments
831 when due; exemption.—

832 (1) For the purposes of this section, the term:

833 (c) "Hospital" means a health care institution as defined
834 in s. 395.002(12), but does not include any hospital operated by
835 a state ~~the agency or the Department of Corrections.~~

836 Section 33. Paragraph (b) of subsection (2) of section
837 395.7015, Florida Statutes, is amended to read:

838 395.7015 Annual assessment on health care entities.—

839 (2) There is imposed an annual assessment against certain
840 health care entities as described in this section:

841 (b) For the purpose of this section, "health care entities"

26-00433-17

20171760__

842 include the following:

843 1. Ambulatory surgical centers ~~and mobile surgical~~
844 ~~facilities licensed under s. 395.003. This subsection shall only~~
845 ~~apply to mobile surgical facilities operating under contracts~~
846 ~~entered into on or after July 1, 1998.~~

847 2. ~~Clinical laboratories licensed under s. 483.091,~~
848 ~~excluding any hospital laboratory defined under s. 483.041(6),~~
849 ~~any clinical laboratory operated by the state or a political~~
850 ~~subdivision of the state, any clinical laboratory which~~
851 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
852 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
853 ~~percent or more of its gross revenues from services to charity~~
854 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~
855 ~~bank procuring, storing, or distributing blood, plasma, or~~
856 ~~tissue either for future manufacture or research or distributed~~
857 ~~on a nonprofit basis, and further excluding any clinical~~
858 ~~laboratory which is wholly owned and operated by 6 or fewer~~
859 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
860 ~~459 and who practice in the same group practice, and at which no~~
861 ~~clinical laboratory work is performed for patients referred by~~
862 ~~any health care provider who is not a member of the same group.~~

863 2.3. Diagnostic-imaging centers that are freestanding
864 outpatient facilities that provide specialized services for the
865 identification or determination of a disease through examination
866 and also provide sophisticated radiological services, and in
867 which services are rendered by a physician licensed by the Board
868 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
869 an osteopathic physician licensed by the Board of Osteopathic
870 Medicine under s. 459.0055 or s. 459.0075. For purposes of this

26-00433-17

20171760

871 paragraph, "sophisticated radiological services" means the
 872 following: magnetic resonance imaging; nuclear medicine;
 873 angiography; arteriography; computed tomography; positron
 874 emission tomography; digital vascular imaging; bronchography;
 875 lymphangiography; splenography; ultrasound, excluding ultrasound
 876 providers that are part of a private physician's office practice
 877 or when ultrasound is provided by two or more physicians
 878 licensed under chapter 458 or chapter 459 who are members of the
 879 same professional association and who practice in the same
 880 medical specialties; and such other sophisticated radiological
 881 services, excluding mammography, as adopted in rule by the
 882 board.

883 Section 34. Subsection (1) of section 400.0625, Florida
 884 Statutes, is amended to read:

885 400.0625 Minimum standards for clinical laboratory test
 886 results and diagnostic X-ray results.—

887 (1) Each nursing home, as a requirement for issuance or
 888 renewal of its license, shall require that all clinical
 889 laboratory tests performed for the nursing home be performed by
 890 a licensed clinical laboratory ~~licensed under the provisions of~~
 891 ~~chapter 483~~, except for such self-testing procedures as are
 892 approved by the agency by rule. ~~Results of clinical laboratory~~
 893 ~~tests performed prior to admission which meet the minimum~~
 894 ~~standards provided in s. 483.181(3) shall be accepted in lieu of~~
 895 ~~routine examinations required upon admission and clinical~~
 896 ~~laboratory tests which may be ordered by a physician for~~
 897 ~~residents of the nursing home.~~

898 Section 35. Subsection (1) and paragraphs (b), (e), and (f)
 899 of subsection (4) of section 400.464, Florida Statutes, are

26-00433-17

20171760

900 amended, and subsection (6) is added to that section, to read:
 901 400.464 Home health agencies to be licensed; expiration of
 902 license; exemptions; unlawful acts; penalties.—

903 (1) The requirements of part II of chapter 408 apply to the
 904 provision of services that require licensure pursuant to this
 905 part and part II of chapter 408 and entities licensed or
 906 registered by or applying for such licensure or registration
 907 from the Agency for Health Care Administration pursuant to this
 908 part. A license issued by the agency is required in order to
 909 operate a home health agency in this state. A license issued
 910 after June 30, 2017, must specify the home health services that
 911 the organization is authorized to perform and indicate whether
 912 such specified services are considered skilled care. The
 913 provision or advertising of services which require licensure
 914 pursuant to this part without such services being specified on
 915 the face of the license issued after June 30, 2017, constitutes
 916 unlicensed activity as prohibited under s. 408.812.

917 (4)

918 (b) The operation or maintenance of an unlicensed home
 919 health agency or the performance of any home health services in
 920 violation of this part is declared a nuisance, inimical to the
 921 public health, welfare, and safety. The agency or any state
 922 attorney may, in addition to other remedies provided in this
 923 part, bring an action for an injunction to restrain such
 924 violation, or to enjoin the future operation or maintenance of
 925 the home health agency or the provision of home health services
 926 in violation of this part or part II of chapter 408, until
 927 compliance with this part or the rules adopted under this part
 928 has been demonstrated to the satisfaction of the agency.

26-00433-17

20171760

929 (e) Any person who owns, operates, or maintains an
 930 unlicensed home health agency and who, ~~within 10 working days~~
 931 after receiving notification from the agency, fails to cease
 932 operation and apply for a license under this part commits a
 933 misdemeanor of the second degree, punishable as provided in s.
 934 775.082 or s. 775.083. Each day of continued operation is a
 935 separate offense.

936 (f) Any home health agency that fails to cease operation
 937 after agency notification may be fined in accordance with s.
 938 408.812 \$500 for each day of noncompliance.

939 (6) Any person, entity, or organization providing home
 940 health services which is exempt from licensure under subsection
 941 (5) may voluntarily apply for a certificate of exemption from
 942 licensure under its exempt status with the agency on a form that
 943 sets forth its name or names and addresses, a statement of the
 944 reasons why it is exempt from licensure as a home health agency,
 945 and other information deemed necessary by the agency. A
 946 certificate of exemption is valid for a period of not more than
 947 2 years and is not transferable. The agency may charge an
 948 applicant for a certificate of exemption in an amount equal to
 949 \$100 or the actual cost of processing the certificate.

950 Section 36. Present subsections (7), (8), and (9) of
 951 section 400.471, Florida Statutes, are renumbered as subsections
 952 (6), (7), and (8), respectively, and subsection (2), present
 953 subsection (6), and paragraph (g) of subsection (10) are
 954 amended, to read:

955 400.471 Application for license; fee.—

956 (2) In addition to the requirements of part II of chapter
 957 408, the initial applicant, the applicant for a change of

26-00433-17

20171760

958 ownership, and the applicant for the addition of skilled care
 959 services, must file with the application satisfactory proof that
 960 the home health agency is in compliance with this part and
 961 applicable rules, including:

962 (a) A listing of services to be provided, either directly
 963 by the applicant or through contractual arrangements with
 964 existing providers.

965 (b) The number and discipline of professional staff to be
 966 employed.

967 ~~(e) Completion of questions concerning volume data on the~~
 968 ~~renewal application as determined by rule.~~

969 (c)(d) A business plan, signed by the applicant, which
 970 details the home health agency's methods to obtain patients and
 971 its plan to recruit and maintain staff.

972 (d)(e) Evidence of contingency funding as required under s.
 973 408.8065 equal to 1 month's average operating expenses during
 974 the first year of operation.

975 (e)(f) A balance sheet, income and expense statement, and
 976 statement of cash flows for the first 2 years of operation which
 977 provide evidence of having sufficient assets, credit, and
 978 projected revenues to cover liabilities and expenses. The
 979 applicant has demonstrated financial ability to operate if the
 980 applicant's assets, credit, and projected revenues meet or
 981 exceed projected liabilities and expenses. An applicant may not
 982 project an operating margin of 15 percent or greater for any
 983 month in the first year of operation. All documents required
 984 under this paragraph must be prepared in accordance with
 985 generally accepted accounting principles and compiled and signed
 986 by a certified public accountant.

26-00433-17

20171760__

987 ~~(f)(g)~~ All other ownership interests in health care
 988 entities for each controlling interest, as defined in part II of
 989 chapter 408.
 990 ~~(g)(h)~~ In the case of an application for initial licensure,
 991 an application for a change of ownership, or an application for
 992 the addition of skilled care services, documentation of
 993 accreditation, or an application for accreditation, from an
 994 accrediting organization that is recognized by the agency as
 995 having standards comparable to those required by this part and
 996 part II of chapter 408. A home health agency that ~~is not~~
 997 ~~Medicare or Medicaid certified and~~ does not provide skilled care
 998 is exempt from this paragraph. Notwithstanding s. 408.806, an
 999 initial applicant that has applied for accreditation must
 1000 provide proof of accreditation that is not conditional or
 1001 provisional and submit a survey demonstrating compliance with
 1002 the requirements of this part, part II of chapter 408, and
 1003 applicable rules from an accrediting organization that is
 1004 recognized by the agency as having standards comparable to those
 1005 required by this part and part II of chapter 408 within 120 days
 1006 after the date of the agency's receipt of the application for
 1007 licensure ~~or the application shall be withdrawn from further~~
 1008 ~~consideration.~~ Such accreditation must be continuously
 1009 maintained by the home health agency to maintain licensure. The
 1010 agency shall accept, in lieu of its own periodic licensure
 1011 survey, the submission of the survey of an accrediting
 1012 organization that is recognized by the agency if the
 1013 accreditation of the licensed home health agency is not
 1014 provisional and if the licensed home health agency authorizes
 1015 releases of, and the agency receives the report of, the

Page 35 of 94

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26-00433-17

20171760__

1016 accrediting organization.
 1017 ~~(6) The agency may not issue a license designated as~~
 1018 ~~certified to a home health agency that fails to satisfy the~~
 1019 ~~requirements of a Medicare certification survey from the agency.~~
 1020 ~~(9)(10)~~ The agency may not issue a renewal license for a
 1021 home health agency in any county having at least one licensed
 1022 home health agency and that has more than one home health agency
 1023 per 5,000 persons, as indicated by the most recent population
 1024 estimates published by the Legislature's Office of Economic and
 1025 Demographic Research, if the applicant or any controlling
 1026 interest has been administratively sanctioned by the agency
 1027 during the 2 years prior to the submission of the licensure
 1028 renewal application for one or more of the following acts:
 1029 (g) Demonstrating a pattern of failing to provide a service
 1030 specified in the home health agency's written agreement with a
 1031 patient or the patient's legal representative, or the plan of
 1032 care for that patient, except unless a reduction in service is
 1033 ~~mandated by Medicare, Medicaid, or a state program or~~ as
 1034 provided in s. 400.492(3). A pattern may be demonstrated by a
 1035 showing of at least three incidents, regardless of the patient
 1036 or service, in which the home health agency did not provide a
 1037 service specified in a written agreement or plan of care during
 1038 a 3-month period;
 1039 Section 37. Subsection (5) of section 400.474, Florida
 1040 Statutes, is amended to read:
 1041 400.474 Administrative penalties.—
 1042 (5) The agency shall impose a fine of \$5,000 against a home
 1043 health agency that demonstrates a pattern of failing to provide
 1044 a service specified in the home health agency's written

Page 36 of 94

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26-00433-17

20171760

agreement with a patient or the patient's legal representative, or the plan of care for that patient, ~~except unless a reduction in service is mandated by Medicare, Medicaid, or a state program~~ or as provided in s. 400.492(3). A pattern may be demonstrated by a showing of at least three incidences, regardless of the patient or service, where the home health agency did not provide a service specified in a written agreement or plan of care during a 3-month period. The agency shall impose the fine for each occurrence. The agency may also impose additional administrative fines under s. 400.484 for the direct or indirect harm to a patient, or deny, revoke, or suspend the license of the home health agency for a pattern of failing to provide a service specified in the home health agency's written agreement with a patient or the plan of care for that patient.

Section 38. Paragraph (c) of subsection (2) of section 400.476, Florida Statutes, is amended to read:

400.476 Staffing requirements; notifications; limitations on staffing services.—

(2) DIRECTOR OF NURSING.—

(c) A home health agency that provides skilled nursing care ~~must is not Medicare or Medicaid certified and does not provide skilled care or provides only physical, occupational, or speech therapy is not required to~~ have a director of nursing ~~and is exempt from paragraph (b).~~

Section 39. Subsection (2) of section 400.484, Florida Statutes, is amended to read:

400.484 Right of inspection; violations deficiencies; fines.—

(2) The agency shall impose fines for various classes of

26-00433-17

20171760

violations deficiencies in accordance with the following schedule:

(a) Class I violations are defined in s. 408.813 ~~A class I deficiency is any act, omission, or practice that results in a patient's death, disablement, or permanent injury, or places a patient at imminent risk of death, disablement, or permanent injury.~~ Upon finding a class I violation deficiency, the agency shall impose an administrative fine in the amount of \$15,000 for each occurrence and each day that the violation deficiency exists.

(b) Class II violations are defined in s. 408.813 ~~A class II deficiency is any act, omission, or practice that has a direct adverse effect on the health, safety, or security of a patient.~~ Upon finding a class II violation deficiency, the agency shall impose an administrative fine in the amount of \$5,000 for each occurrence and each day that the violation deficiency exists.

(c) Class III violations are defined in s. 408.813 ~~A class III deficiency is any act, omission, or practice that has an indirect, adverse effect on the health, safety, or security of a patient.~~ Upon finding an uncorrected or repeated class III violation deficiency, the agency shall impose an administrative fine not to exceed \$1,000 for each occurrence and each day that the uncorrected or repeated violation deficiency exists.

(d) Class IV violations are defined in s. 408.813 ~~A class IV deficiency is any act, omission, or practice related to required reports, forms, or documents which does not have the potential of negatively affecting patients.~~ These violations are of a type that the agency determines do not threaten the health,

26-00433-17 20171760__

safety, or security of patients. Upon finding an uncorrected or repeated class IV ~~violation deficiency~~, the agency shall impose an administrative fine not to exceed \$500 for each occurrence and each day that the uncorrected or repeated violation ~~deficiency~~ exists.

Section 40. Subsection (4) of section 400.497, Florida Statutes, is amended to read:

400.497 Rules establishing minimum standards.—The agency shall adopt, publish, and enforce rules to implement part II of chapter 408 and this part, including, as applicable, ss. 400.506 and 400.509, which must provide reasonable and fair minimum standards relating to:

(4) Licensure and certificate of exemption application and renewal.

Section 41. Subsection (5), paragraphs (d) and (e) of subsection (6), paragraph (a) of subsection (15), and subsections (19) and (20) of section 400.506, Florida Statutes, are amended to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(5) (a) In addition to the requirements of s. 408.812, any person who owns, operates, or maintains an unlicensed nurse registry and who, ~~within 10 working days~~ after receiving notification from the agency, fails to cease operation and apply for a license under this part commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continued operation is a separate offense.

(b) If a nurse registry fails to cease operation after agency notification, the agency may impose a fine in accordance

26-00433-17 20171760__

with s. 408.812 ~~of \$500 for each day of noncompliance.~~

(6)

(d) A registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide referred for contract under this chapter by a nurse registry is deemed an independent contractor and not an employee of the nurse registry under any chapter, regardless of the obligations imposed on a nurse registry under this chapter or chapter 408.

(e) Upon referral of a registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide for contract in a private residence or facility, the nurse registry shall advise the patient, the patient's family, or any other person acting on behalf of the patient, at the time of the contract for services, that the caregiver referred by the nurse registry is an independent contractor and that the it is not the obligation of a nurse registry is not permitted to monitor, supervise, manage, or train a caregiver referred for contract under this chapter.

(15) (a) The agency may deny, suspend, or revoke the license of a nurse registry and shall impose a fine of \$5,000 against a nurse registry that:

1. Provides services to residents in an assisted living facility for which the nurse registry does not receive fair market value remuneration.

2. Provides staffing to an assisted living facility for which the nurse registry does not receive fair market value remuneration.

3. Fails to provide the agency, upon request, with copies of all contracts with assisted living facilities which were

26-00433-17

20171760__

executed within the last 5 years.

~~4. Gives remuneration to a case manager, discharge planner, facility-based staff member, or third-party vendor who is involved in the discharge planning process of a facility licensed under chapter 395 or this chapter and from whom the nurse registry receives referrals. A nurse registry is exempt from this subparagraph if it does not bill the Florida Medicaid program or the Medicare program or share a controlling interest with any entity licensed, registered, or certified under part II of chapter 408 that bills the Florida Medicaid program or the Medicare program.~~

~~5. Gives remuneration to a physician, a member of the physician's office staff, or an immediate family member of the physician, and the nurse registry received a patient referral in the last 12 months from that physician or the physician's office staff. A nurse registry is exempt from this subparagraph if it does not bill the Florida Medicaid program or the Medicare program or share a controlling interest with any entity licensed, registered, or certified under part II of chapter 408 that bills the Florida Medicaid program or the Medicare program.~~

~~(19) It is not the obligation of~~ A nurse registry is not permitted to monitor, supervise, manage, or train a registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide referred for contract under this chapter. In the event of a violation of this chapter or a violation of any other law of this state by a referred registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide, or a deficiency in credentials which comes to the attention of

26-00433-17

20171760__

the nurse registry, the nurse registry shall advise the patient to terminate the referred person's contract, providing the reason for the suggested termination; cease referring the person to other patients or facilities; and, if practice violations are involved, notify the licensing board. This section does not affect or negate any other obligations imposed on a nurse registry under chapter 408.

(20) Records required to be filed under this chapter with the nurse registry as a repository of records must be kept in accordance with rules adopted by the agency. The nurse registry is not permitted ~~has no obligation~~ to review or act upon such records except as specified in subsection (19).

Section 42. Subsection (1) of section 400.606, Florida Statutes, is amended to read:

400.606 License; application; renewal; conditional license or permit; certificate of need.—

(1) In addition to the requirements of part II of chapter 408, the initial application and change of ownership application must be accompanied by a plan for the delivery of home, residential, and homelike inpatient hospice services to terminally ill persons and their families. Such plan must contain, but need not be limited to:

(a) The estimated average number of terminally ill persons to be served monthly.

(b) The geographic area in which hospice services will be available.

(c) A listing of services which are or will be provided, either directly by the applicant or through contractual arrangements with existing providers.

26-00433-17

20171760__

1219 (d) Provisions for the implementation of hospice home care
 1220 within 3 months after licensure.
 1221 (e) Provisions for the implementation of hospice homelike
 1222 inpatient care within 12 months after licensure.
 1223 (f) The number and disciplines of professional staff to be
 1224 employed.
 1225 (g) The name and qualifications of any existing or
 1226 potential contractee.
 1227 (h) A plan for attracting and training volunteers.
 1228
 1229 ~~If the applicant is an existing licensed health care provider,~~
 1230 ~~the application must be accompanied by a copy of the most recent~~
 1231 ~~profit loss statement and, if applicable, the most recent~~
 1232 ~~licensure inspection report.~~
 1233 Section 43. Subsection (6) of section 400.925, Florida
 1234 Statutes, is amended to read:
 1235 400.925 Definitions.—As used in this part, the term:
 1236 (6) "Home medical equipment" includes any product as
 1237 defined by the Federal Drug Administration's Drugs, Devices and
 1238 Cosmetics Act, any products reimbursed under the Medicare Part B
 1239 Durable Medical Equipment benefits, or any products reimbursed
 1240 under the Florida Medicaid durable medical equipment program.
 1241 Home medical equipment includes:
 1242 (a) Oxygen and related respiratory equipment; manual,
 1243 ~~motorized, or customized wheelchairs and related seating and~~
 1244 ~~positioning, but does not include prosthetics or orthotics or~~
 1245 ~~any splints, braces, or aids custom fabricated by a licensed~~
 1246 ~~health care practitioner;~~
 1247 (b) Motorized scooters;

26-00433-17

20171760__

1248 (c) Personal transfer systems; and
 1249 (d) Specialty beds, for use by a person with a medical
 1250 need; and
 1251 (e) Manual, motorized, or customized wheelchairs and
 1252 related seating and positioning, but does not include
 1253 prosthetics, orthotics, or any splints, braces, or aids custom
 1254 fabricated by a licensed health care practitioner.
 1255 Section 44. Subsection (4) of section 400.931, Florida
 1256 Statutes, is amended to read:
 1257 400.931 Application for license; fee.—
 1258 (4) When a change of the general manager of a home medical
 1259 equipment provider occurs, the licensee must notify the agency
 1260 of the change within the timeframes established in part II of
 1261 chapter 408 and applicable rules 45 days.
 1262 Section 45. Subsection (2) of section 400.933, Florida
 1263 Statutes, is amended to read:
 1264 400.933 Licensure inspections and investigations.—
 1265 (2) The agency shall accept, in lieu of its own periodic
 1266 inspections for licensure, submission of the following:
 1267 (a) The survey or inspection of an accrediting
 1268 organization, provided the accreditation of the licensed home
 1269 medical equipment provider is not provisional and provided the
 1270 licensed home medical equipment provider authorizes release of,
 1271 and the agency receives the report of, the accrediting
 1272 organization; or
 1273 (b) A copy of a valid medical oxygen retail establishment
 1274 permit issued by the Department of Business and Professional
 1275 Regulation Health, pursuant to chapter 499.
 1276 Section 46. Subsection (2) of section 400.980, Florida

26-00433-17

20171760__

Statutes, is amended to read:

400.980 Health care services pools.—

(2) The requirements of part II of chapter 408 apply to the provision of services that require licensure or registration pursuant to this part and part II of chapter 408 and to entities registered by or applying for such registration from the agency pursuant to this part. Registration or a license issued by the agency is required for the operation of a health care services pool in this state. In accordance with s. 408.805, an applicant or licensee shall pay a fee for each license application submitted using this part, part II of chapter 408, and applicable rules. The agency shall adopt rules and provide forms required for such registration and shall impose a registration fee in an amount sufficient to cover the cost of administering this part and part II of chapter 408. In addition to the requirements in part II of chapter 408, the registrant must provide the agency with any change of information contained on the original registration application within the timeframes established in this part, part II of chapter 408, and applicable rules ~~14 days prior to the change~~.

Section 47. Paragraphs (a) through (d) of subsection (4) of section 400.9905, Florida Statutes, are amended to read:

400.9905 Definitions.—

(4) "Clinic" means an entity where health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider. As used in this part, the term does not include and the licensure requirements of this part do not apply to:

Page 45 of 94

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26-00433-17

20171760__

(a) Entities licensed or registered by the state under chapter 395; entities licensed or registered by the state and providing only health care services within the scope of services authorized under their respective licenses under ~~ss. 383.30-383.332~~ ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or any entity that provides neonatal or pediatric hospital-based health care services or other health care services by licensed practitioners solely within a hospital licensed under chapter 395.

(b) Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses under ~~ss. 383.30-383.332~~ ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or any entity that provides neonatal or pediatric hospital-based health care services by licensed practitioners solely within a hospital licensed under chapter 395.

Page 46 of 94

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26-00433-17

20171760

1335 (c) Entities that are owned, directly or indirectly, by an
 1336 entity licensed or registered by the state pursuant to chapter
 1337 395; entities that are owned, directly or indirectly, by an
 1338 entity licensed or registered by the state and providing only
 1339 health care services within the scope of services authorized
 1340 pursuant to their respective licenses under ss. 383.30-383.332
 1341 ~~ss. 383.30-383.335~~, chapter 390, chapter 394, chapter 397, this
 1342 chapter except part X, chapter 429, chapter 463, chapter 465,
 1343 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
 1344 chapter 651; end-stage renal disease providers authorized under
 1345 42 C.F.R. part 405, subpart U; providers certified under 42
 1346 C.F.R. part 485, subpart B or subpart H; or any entity that
 1347 provides neonatal or pediatric hospital-based health care
 1348 services by licensed practitioners solely within a hospital
 1349 under chapter 395.

1350 (d) Entities that are under common ownership, directly or
 1351 indirectly, with an entity licensed or registered by the state
 1352 pursuant to chapter 395; entities that are under common
 1353 ownership, directly or indirectly, with an entity licensed or
 1354 registered by the state and providing only health care services
 1355 within the scope of services authorized pursuant to their
 1356 respective licenses under ss. 383.30-383.332 ~~ss. 383.30-383.335~~,
 1357 chapter 390, chapter 394, chapter 397, this chapter except part
 1358 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
 1359 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
 1360 stage renal disease providers authorized under 42 C.F.R. part
 1361 405, subpart U; providers certified under 42 C.F.R. part 485,
 1362 subpart B or subpart H; or any entity that provides neonatal or
 1363 pediatric hospital-based health care services by licensed

26-00433-17

20171760

1364 practitioners solely within a hospital licensed under chapter
 1365 395.

1366
 1367 Notwithstanding this subsection, an entity shall be deemed a
 1368 clinic and must be licensed under this part in order to receive
 1369 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
 1370 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1371 Section 48. Paragraph (a) of subsection (2) of section
 1372 408.033, Florida Statutes, is amended to read:

1373 408.033 Local and state health planning.—

1374 (2) FUNDING.—

1375 (a) The Legislature intends that the cost of local health
 1376 councils be borne by assessments on selected health care
 1377 facilities subject to facility licensure by the Agency for
 1378 Health Care Administration, including abortion clinics, assisted
 1379 living facilities, ambulatory surgical centers, birthing
 1380 centers, ~~clinical laboratories except community nonprofit blood~~
 1381 ~~banks and clinical laboratories operated by practitioners for~~
 1382 ~~exclusive use regulated under s. 483.035~~, home health agencies,
 1383 hospices, hospitals, intermediate care facilities for the
 1384 developmentally disabled, nursing homes, health care clinics,
 1385 and multiphasic testing centers and by assessments on
 1386 organizations subject to certification by the agency pursuant to
 1387 chapter 641, part III, including health maintenance
 1388 organizations and prepaid health clinics. Fees assessed may be
 1389 collected prospectively at the time of licensure renewal and
 1390 prorated for the licensure period.

1391 Section 49. Paragraph (e) and present paragraph (p) of
 1392 subsection (3) of section 408.036, Florida Statutes, are amended

26-00433-17

20171760

1393 to read:

1394 408.036 Projects subject to review; exemptions.—

1395 (3) EXEMPTIONS.—Upon request, the following projects are
1396 subject to exemption from the provisions of subsection (1):

1397 ~~(e) For mobile surgical facilities and related health care~~
1398 ~~services provided under contract with the Department of~~
1399 ~~Corrections or a private correctional facility operating~~
1400 ~~pursuant to chapter 957.~~

1401 (o) (p) For replacement of a licensed nursing home on the
1402 same site, or within 5 miles of the same site if within the same
1403 subdistrict, if the number of licensed beds does not increase
1404 except as permitted under paragraph (e) ~~(f)~~.

1405 Section 50. Subsection (4) of section 408.061, Florida
1406 Statutes, is amended to read:

1407 408.061 Data collection; uniform systems of financial
1408 reporting; information relating to physician charges;
1409 confidential information; immunity.—

1410 (4) Within 120 days after the end of its fiscal year, each
1411 health care facility, excluding continuing care facilities as
1412 defined in s. 408.07(13), hospitals operated by state agencies,
1413 and nursing homes as defined in s. 408.07(36) 408.07(14) and
1414 (37), shall file with the agency, on forms adopted by the agency
1415 and based on the uniform system of financial reporting, its
1416 actual financial experience for that fiscal year, including
1417 expenditures, revenues, and statistical measures. Such data may
1418 be based on internal financial reports which are certified to be
1419 complete and accurate by the provider. However, hospitals'
1420 actual financial experience shall be their audited actual
1421 experience. Every nursing home shall submit to the agency, in a

26-00433-17

20171760

1422 format designated by the agency, a statistical profile of the
1423 nursing home residents. The agency, in conjunction with the
1424 Department of Elderly Affairs and the Department of Health,
1425 shall review these statistical profiles and develop
1426 recommendations for the types of residents who might more
1427 appropriately be placed in their homes or other noninstitutional
1428 settings.

1429 Section 51. Subsection (11) of section 408.07, Florida
1430 Statutes, is amended to read:

1431 408.07 Definitions.—As used in this chapter, with the
1432 exception of ss. 408.031-408.045, the term:

1433 ~~(11) "Clinical laboratory" means a facility licensed under~~
1434 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~
1435 ~~483.041(6); any clinical laboratory operated by the state or a~~
1436 ~~political subdivision of the state; any blood or tissue bank~~
1437 ~~where the majority of revenues are received from the sale of~~
1438 ~~blood or tissue and where blood, plasma, or tissue is procured~~
1439 ~~from volunteer donors and donated, processed, stored, or~~
1440 ~~distributed on a nonprofit basis; and any clinical laboratory~~
1441 ~~which is wholly owned and operated by physicians who are~~
1442 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
1443 ~~in the same group practice, and at which no clinical laboratory~~
1444 ~~work is performed for patients referred by any health care~~
1445 ~~provider who is not a member of that same group practice.~~

1446 Section 52. Subsection (4) of section 408.20, Florida
1447 Statutes, is amended to read:

1448 408.20 Assessments; Health Care Trust Fund.—

1449 (4) Hospitals operated by state agencies ~~the Department of~~
1450 ~~Children and Families, the Department of Health, or the~~

26-00433-17 20171760__

1451 ~~Department of Corrections~~ are exempt from the assessments
1452 required under this section.

1453 Section 53. Section 408.7056, Florida Statutes, is
1454 repealed.

1455 Section 54. Subsections (10), (11), and (27) of section
1456 408.802, Florida Statutes, are amended to read:

1457 408.802 Applicability.—The provisions of this part apply to
1458 the provision of services that require licensure as defined in
1459 this part and to the following entities licensed, registered, or
1460 certified by the agency, as described in chapters 112, 383, 390,
1461 394, 395, 400, 429, 440, 483, and 765:

1462 ~~(10) Mobile surgical facilities, as provided under part I~~
1463 ~~of chapter 395.~~

1464 ~~(11) Health care risk managers, as provided under part I of~~
1465 ~~chapter 395.~~

1466 ~~(27) Clinical laboratories, as provided under part I of~~
1467 ~~chapter 483.~~

1468 Section 55. Present subsections (12) and (13) of section
1469 408.803, Florida Statutes, are renumbered as subsections (13)
1470 and (14), respectively, and a new subsection (12) is added to
1471 that section, to read:

1472 408.803 Definitions.—As used in this part, the term:

1473 (12) "Relative" means an individual who is the father,
1474 mother, stepfather, stepmother, son, daughter, brother, sister,
1475 grandmother, grandfather, great-grandmother, great-grandfather,
1476 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1477 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1478 daughter-in-law, brother-in-law, sister-in-law, stepson,
1479 stepdaughter, stepbrother, stepsister, half-brother, or half-

26-00433-17 20171760__

1480 sister of a patient or client.

1481 Section 56. Paragraph (a) of subsection (1) and paragraph
1482 (c) of subsection (7) of section 408.806, Florida Statutes, are
1483 amended, and subsection (9) is added to that section, to read:

1484 408.806 License application process.—

1485 (1) An application for licensure must be made to the agency
1486 on forms furnished by the agency, submitted under oath or
1487 attestation, and accompanied by the appropriate fee in order to
1488 be accepted and considered timely. The application must contain
1489 information required by authorizing statutes and applicable
1490 rules and must include:

1491 (a) The name, address, and social security number, or
1492 individual taxpayer identification number if a social security
1493 number cannot legally be obtained, of:

1494 1. The applicant;

1495 2. The administrator or a similarly titled person who is
1496 responsible for the day-to-day operation of the provider;

1497 3. The financial officer or similarly titled person who is
1498 responsible for the financial operation of the licensee or
1499 provider; and

1500 4. Each controlling interest if the applicant or
1501 controlling interest is an individual.

1502 The licensee shall ensure that no person has any ownership
1503 interest in the licensee, directly or indirectly, regardless of
1504 ownership structure, who is ineligible pursuant to s.
1505 408.809(4). The licensee shall ensure that no person holds or
1506 has held any ownership interest, directly or indirectly,
1507 regardless of ownership structure, in a provider that has had a
1508

26-00433-17 20171760

1509 license or change of ownership application denied, revoked, or
 1510 excluded pursuant to s. 408.815.

1511 (7)

1512 (c) If an inspection is required by the authorizing statute
 1513 for a license application other than an initial application, the
 1514 inspection must be unannounced. This paragraph does not apply to
 1515 inspections required pursuant to ss. 383.324, 395.0161(4), and
 1516 429.67(6), and 483.061(2).

1517 (9) A licensee that holds a license for multiple providers
 1518 licensed by the agency may request that all related license
 1519 expiration dates be aligned. The agency may issue a license for
 1520 an abbreviated licensure period with a prorated licensure fee.

1521 Section 57. Subsection (8) of section 408.810, Florida
 1522 Statutes, is amended, and subsection (11) is added to that
 1523 section to read:

1524 408.810 Minimum licensure requirements.—In addition to the
 1525 licensure requirements specified in this part, authorizing
 1526 statutes, and applicable rules, each applicant and licensee must
 1527 comply with the requirements of this section in order to obtain
 1528 and maintain a license.

1529 (8) Upon application for initial licensure or change of
 1530 ownership licensure, the applicant shall furnish satisfactory
 1531 proof of the applicant's financial ability to operate in
 1532 accordance with the requirements of this part, authorizing
 1533 statutes, and applicable rules. The agency shall establish
 1534 standards for this purpose, including information concerning the
 1535 applicant's controlling interests. The agency shall also
 1536 establish documentation requirements, to be completed by each
 1537 applicant, that show anticipated provider revenues and

26-00433-17 20171760

1538 expenditures, the basis for financing the anticipated cash-flow
 1539 requirements of the provider, and an applicant's access to
 1540 contingency financing. A current certificate of authority,
 1541 pursuant to chapter 651, may be provided as proof of financial
 1542 ability to operate. The agency may require a licensee to provide
 1543 proof of financial ability to operate at any time if there is
 1544 evidence of financial instability, including, but not limited
 1545 to, unpaid expenses necessary for the basic operations of the
 1546 provider. An applicant applying for change of ownership
 1547 licensure is exempt from furnishing proof of the applicant's
 1548 financial ability to operate if the provider has been licensed
 1549 for at least 5 years and:

1550 (a) The licensee change is a result of a corporate
 1551 reorganization under which the controlling interest is unchanged
 1552 and the applicant submits organization charts that represent the
 1553 current and proposed structure of the reorganized corporation;
 1554 or

1555 (b) The licensee change is due solely to the death of a
 1556 controlling interest, and the surviving controlling interests
 1557 continue to hold at least 51 percent of ownership after the
 1558 change of ownership.

1559 (11) The agency may adopt rules that govern the
 1560 circumstances under which a controlling interest, an
 1561 administrator, an employee, a contractor, or a representative
 1562 thereof who is not a relative of the patient or client may act
 1563 as a legal representative, agent, health care surrogate, power
 1564 of attorney, or guardian of a patient or client. Such rules may
 1565 include requirements related to disclosure, bonding,
 1566 restrictions, and client protections.

26-00433-17

20171760

1567 Section 58. Section 408.812, Florida Statutes, is amended
 1568 to read:
 1569 408.812 Unlicensed activity.—
 1570 (1) A person or entity may not offer or advertise services
 1571 that require licensure as defined by this part, authorizing
 1572 statutes, or applicable rules to the public without obtaining a
 1573 valid license from the agency. A licenseholder may not advertise
 1574 or hold out to the public that he or she holds a license for
 1575 other than that for which he or she actually holds the license.
 1576 (2) The operation or maintenance of an unlicensed provider
 1577 or the performance of any services that require licensure
 1578 without proper licensure is a violation of this part and
 1579 authorizing statutes. Unlicensed activity constitutes harm that
 1580 materially affects the health, safety, and welfare of clients
 1581 and constitutes abuse and neglect as defined in s. 415.102. The
 1582 agency or any state attorney may, in addition to other remedies
 1583 provided in this part, bring an action for an injunction to
 1584 restrain such violation, or to enjoin the future operation or
 1585 maintenance of the unlicensed provider or the performance of any
 1586 services in violation of this part and authorizing statutes,
 1587 until compliance with this part, authorizing statutes, and
 1588 agency rules has been demonstrated to the satisfaction of the
 1589 agency.
 1590 (3) It is unlawful for any person or entity to own,
 1591 operate, or maintain an unlicensed provider. If after receiving
 1592 notification from the agency, such person or entity fails to
 1593 cease operation ~~and apply for a license under this part and~~
 1594 ~~authorizing statutes,~~ the person or entity shall be subject to
 1595 penalties as prescribed by authorizing statutes and applicable

Page 55 of 94

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26-00433-17

20171760

1596 rules. Each day of ~~continued~~ operation is a separate offense.
 1597 (4) Any person or entity that fails to cease operation
 1598 after agency notification may be fined \$1,000 for each day of
 1599 noncompliance.
 1600 (5) When a controlling interest or licensee has an interest
 1601 in more than one provider and fails to license a provider
 1602 rendering services that require licensure, the agency may revoke
 1603 all licenses and impose actions under s. 408.814 and, regardless
 1604 of correction, impose a fine of \$1,000 per day, unless otherwise
 1605 specified by authorizing statutes, against each licensee until
 1606 such time as the appropriate license is obtained or the
 1607 unlicensed activity ceases for the unlicensed operation.
 1608 (6) In addition to granting injunctive relief pursuant to
 1609 subsection (2), if the agency determines that a person or entity
 1610 is operating or maintaining a provider without obtaining a
 1611 license and determines that a condition exists that poses a
 1612 threat to the health, safety, or welfare of a client of the
 1613 provider, the person or entity is subject to the same actions
 1614 and fines imposed against a licensee as specified in this part,
 1615 authorizing statutes, and agency rules.
 1616 (7) Any person aware of the operation of an unlicensed
 1617 provider must report that provider to the agency.
 1618 Section 59. Subsections (10), (11), (26), and (27) of
 1619 section 408.820, Florida Statutes, are amended to read:
 1620 408.820 Exemptions.—Except as prescribed in authorizing
 1621 statutes, the following exemptions shall apply to specified
 1622 requirements of this part:
 1623 ~~(10) Mobile surgical facilities, as provided under part I~~
 1624 ~~of chapter 395, are exempt from s. 408.810(7)-(10).~~

Page 56 of 94

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26-00433-17

20171760__

1625 ~~(11) Health care risk managers, as provided under part I of~~
 1626 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~
 1627 ~~and 408.811.~~

1628 ~~(26) Clinical laboratories, as provided under part I of~~
 1629 ~~chapter 483, are exempt from s. 408.810(5) (10).~~

1630 ~~(24)-(27)~~ Multiphasic health testing centers, as provided
 1631 under part I ~~II~~ of chapter 483, are exempt from s. 408.810(5)-
 1632 (10).

1633 Section 60. Subsection (7) of section 409.905, Florida
 1634 Statutes, is amended to read:

1635 409.905 Mandatory Medicaid services.—The agency may make
 1636 payments for the following services, which are required of the
 1637 state by Title XIX of the Social Security Act, furnished by
 1638 Medicaid providers to recipients who are determined to be
 1639 eligible on the dates on which the services were provided. Any
 1640 service under this section shall be provided only when medically
 1641 necessary and in accordance with state and federal law.
 1642 Mandatory services rendered by providers in mobile units to
 1643 Medicaid recipients may be restricted by the agency. Nothing in
 1644 this section shall be construed to prevent or limit the agency
 1645 from adjusting fees, reimbursement rates, lengths of stay,
 1646 number of visits, number of services, or any other adjustments
 1647 necessary to comply with the availability of moneys and any
 1648 limitations or directions provided for in the General
 1649 Appropriations Act or chapter 216.

1650 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
 1651 for medically necessary diagnostic laboratory procedures ordered
 1652 by a licensed physician or other licensed practitioner of the
 1653 healing arts which are provided for a recipient in a laboratory

26-00433-17

20171760__

1654 that meets the requirements for Medicare participation and
 1655 appropriately certified by the Centers for Medicare and Medicaid
 1656 Services (CMS) under the federal Clinical Laboratory Improvement
 1657 Amendments of 1988 is licensed under chapter 483, if required.

1658 Section 61. Subsection (6) of section 409.9116, Florida
 1659 Statutes, is amended to read:

1660 409.9116 Disproportionate share/financial assistance
 1661 program for rural hospitals.—In addition to the payments made
 1662 under s. 409.911, the Agency for Health Care Administration
 1663 shall administer a federally matched disproportionate share
 1664 program and a state-funded financial assistance program for
 1665 statutory rural hospitals. The agency shall make
 1666 disproportionate share payments to statutory rural hospitals
 1667 that qualify for such payments and financial assistance payments
 1668 to statutory rural hospitals that do not qualify for
 1669 disproportionate share payments. The disproportionate share
 1670 program payments shall be limited by and conform with federal
 1671 requirements. Funds shall be distributed quarterly in each
 1672 fiscal year for which an appropriation is made. Notwithstanding
 1673 the provisions of s. 409.915, counties are exempt from
 1674 contributing toward the cost of this special reimbursement for
 1675 hospitals serving a disproportionate share of low-income
 1676 patients.

1677 (6) This section applies only to hospitals that were
 1678 defined as statutory rural hospitals, or their successor-in-
 1679 interest hospital, prior to January 1, 2001. Any additional
 1680 hospital that is defined as a statutory rural hospital, or its
 1681 successor-in-interest hospital, on or after January 1, 2001, is
 1682 not eligible for programs under this section unless additional

26-00433-17 20171760__

1683 funds are appropriated each fiscal year specifically to the
 1684 rural hospital disproportionate share and financial assistance
 1685 programs in an amount necessary to prevent any hospital, or its
 1686 successor-in-interest hospital, eligible for the programs prior
 1687 to January 1, 2001, from incurring a reduction in payments
 1688 because of the eligibility of an additional hospital to
 1689 participate in the programs. A hospital, or its successor-in-
 1690 interest hospital, which received funds pursuant to this section
 1691 before January 1, 2001, and which qualifies under s.
 1692 395.602(2)(b) ~~395.602(2)(e)~~, shall be included in the programs
 1693 under this section and is not required to seek additional
 1694 appropriations under this subsection.

1695 Section 62. Paragraphs (a) and (b) of subsection (1) of
 1696 section 409.975, Florida Statutes, are amended to read:
 1697 409.975 Managed care plan accountability.—In addition to
 1698 the requirements of s. 409.967, plans and providers
 1699 participating in the managed medical assistance program shall
 1700 comply with the requirements of this section.

1701 (1) PROVIDER NETWORKS.—Managed care plans must develop and
 1702 maintain provider networks that meet the medical needs of their
 1703 enrollees in accordance with standards established pursuant to
 1704 s. 409.967(2)(c). Except as provided in this section, managed
 1705 care plans may limit the providers in their networks based on
 1706 credentials, quality indicators, and price.

1707 (a) Plans must include all providers in the region that are
 1708 classified by the agency as essential Medicaid providers, unless
 1709 the agency approves, in writing, an alternative arrangement for
 1710 securing the types of services offered by the essential
 1711 providers. Providers are essential for serving Medicaid

26-00433-17 20171760__

1712 enrollees if they offer services that are not available from any
 1713 other provider within a reasonable access standard, or if they
 1714 provided a substantial share of the total units of a particular
 1715 service used by Medicaid patients within the region during the
 1716 last 3 years and the combined capacity of other service
 1717 providers in the region is insufficient to meet the total needs
 1718 of the Medicaid patients. The agency may not classify physicians
 1719 and other practitioners as essential providers. The agency, at a
 1720 minimum, shall determine which providers in the following
 1721 categories are essential Medicaid providers:

1722 1. Federally qualified health centers.

1723 2. Statutory teaching hospitals as defined in s. 408.07(44)
 1724 ~~408.07(45)~~.

1725 3. Hospitals that are trauma centers as defined in s.
 1726 395.4001(14).

1727 4. Hospitals located at least 25 miles from any other
 1728 hospital with similar services.

1729 Managed care plans that have not contracted with all essential
 1730 providers in the region as of the first date of recipient
 1731 enrollment, or with whom an essential provider has terminated
 1732 its contract, must negotiate in good faith with such essential
 1733 providers for 1 year or until an agreement is reached, whichever
 1734 is first. Payments for services rendered by a nonparticipating
 1735 essential provider shall be made at the applicable Medicaid rate
 1736 as of the first day of the contract between the agency and the
 1737 plan. A rate schedule for all essential providers shall be
 1738 attached to the contract between the agency and the plan. After
 1739 1 year, managed care plans that are unable to contract with
 1740

26-00433-17 20171760
 1741 essential providers shall notify the agency and propose an
 1742 alternative arrangement for securing the essential services for
 1743 Medicaid enrollees. The arrangement must rely on contracts with
 1744 other participating providers, regardless of whether those
 1745 providers are located within the same region as the
 1746 nonparticipating essential service provider. If the alternative
 1747 arrangement is approved by the agency, payments to
 1748 nonparticipating essential providers after the date of the
 1749 agency's approval shall equal 90 percent of the applicable
 1750 Medicaid rate. Except for payment for emergency services, if the
 1751 alternative arrangement is not approved by the agency, payment
 1752 to nonparticipating essential providers shall equal 110 percent
 1753 of the applicable Medicaid rate.

1754 (b) Certain providers are statewide resources and essential
 1755 providers for all managed care plans in all regions. All managed
 1756 care plans must include these essential providers in their
 1757 networks. Statewide essential providers include:

1758 1. Faculty plans of Florida medical schools.
 1759 2. Regional perinatal intensive care centers as defined in
 1760 s. 383.16(2).

1761 3. Hospitals licensed as specialty children's hospitals as
 1762 defined in s. ~~395.002(27)~~ 395.002(28).

1763 4. Accredited and integrated systems serving medically
 1764 complex children which comprise separately licensed, but
 1765 commonly owned, health care providers delivering at least the
 1766 following services: medical group home, in-home and outpatient
 1767 nursing care and therapies, pharmacy services, durable medical
 1768 equipment, and Prescribed Pediatric Extended Care.
 1769

26-00433-17 20171760
 1770 Managed care plans that have not contracted with all statewide
 1771 essential providers in all regions as of the first date of
 1772 recipient enrollment must continue to negotiate in good faith.
 1773 Payments to physicians on the faculty of nonparticipating
 1774 Florida medical schools shall be made at the applicable Medicaid
 1775 rate. Payments for services rendered by regional perinatal
 1776 intensive care centers shall be made at the applicable Medicaid
 1777 rate as of the first day of the contract between the agency and
 1778 the plan. Except for payments for emergency services, payments
 1779 to nonparticipating specialty children's hospitals shall equal
 1780 the highest rate established by contract between that provider
 1781 and any other Medicaid managed care plan.

1782 Section 63. Subsections (5) and (17) of section 429.02,
 1783 Florida Statutes, are amended to read:

1784 429.02 Definitions.—When used in this part, the term:

1785 (5) "Assisted living facility" means any building or
 1786 buildings, section or distinct part of a building, private home,
 1787 boarding home, home for the aged, or other residential facility,
 1788 whether operated for profit or not, which, undertakes through
 1789 its ownership or management, provides ~~to provide~~ housing, meals,
 1790 and one or more personal services for a period exceeding 24
 1791 hours to one or more adults who are not relatives of the owner
 1792 or administrator.

1793 (17) "Personal services" means direct physical assistance
 1794 with or supervision of the activities of daily living, and the
 1795 self-administration of medication, or ~~and~~ other similar services
 1796 which the department may define by rule. "Personal services" may
 1797 ~~shall~~ not be construed to mean the provision of medical,
 1798 nursing, dental, or mental health services, or, with the

26-00433-17 20171760

1799 exception of authorized adult day care services provided within
 1800 a licensed assisted living facility, personal services to
 1801 individuals who are not residents of the facility.

1802 Section 64. Paragraphs (b) and (d) of subsection (2) of
 1803 section 429.04, Florida Statutes, are amended, and subsection
 1804 (3) is added to that section, to read:

1805 429.04 Facilities to be licensed; exemptions.—

1806 (2) The following are exempt from licensure under this
 1807 part:

1808 (b) Any facility or part of a facility licensed by the
 1809 Agency for Persons with Disabilities under chapter 393, a mental
 1810 health facility licensed under ~~or~~ chapter 394, a hospital
 1811 licensed under chapter 395, a nursing home licensed under part
 1812 II of chapter 400, an inpatient hospice licensed under part IV
 1813 of chapter 400, a home for special services licensed under part
 1814 V of chapter 400, an intermediate care facility licensed under
 1815 part VIII of chapter 400, or a transitional living facility
 1816 licensed under part XI of chapter 400.

1817 (d) Any person who provides housing, meals, and one or more
 1818 personal services on a 24-hour basis in the person's own home to
 1819 not more than two adults who do not receive optional state
 1820 supplementation. The person who provides the housing, meals, and
 1821 personal services must own or rent the home and must have
 1822 established the home as the person's permanent residence. Any
 1823 person holding a homestead exemption at an address other than
 1824 that at which the person asserts this exemption shall be
 1825 presumed to not have established permanent residence under this
 1826 exemption reside therein. This exemption does not apply to a
 1827 person or entity who previously held licensure issued by the

26-00433-17 20171760

1828 agency and such licensure was revoked or the licensure renewal
 1829 was denied by final order of the agency, or when the person or
 1830 entity voluntarily relinquished licensure during agency
 1831 enforcement proceedings.

1832 (3) Upon agency investigation of unlicensed activity, any
 1833 person or entity asserting an exemption pursuant to this section
 1834 shall have the burden of providing documentation substantiating
 1835 that the person or entity is entitled to the licensure
 1836 exemption.

1837 Section 65. Paragraphs (b) and (d) of subsection (1) of
 1838 section 429.08, Florida Statutes, are amended, to read:

1839 429.08 Unlicensed facilities; referral of person for
 1840 residency to unlicensed facility; penalties.—

1841 (1)

1842 (b) ~~Except as provided under paragraph (d),~~ Any person who
 1843 owns, rents, or otherwise maintains a building or property that
 1844 operates, or maintains an unlicensed assisted living facility
 1845 commits a felony of the third degree, punishable as provided in
 1846 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
 1847 operation is a separate offense.

1848 (d) In addition to the requirements of s. 408.812, any
 1849 person who owns, operates, or maintains an unlicensed assisted
 1850 living facility after receiving notice from the agency due to a
 1851 change in this part or a modification in rule within 6 months
 1852 after the effective date of such change and who, within 10
 1853 working days after receiving notification from the agency, fails
 1854 to cease operation or apply for a license under this part
 1855 commits a felony of the third degree, punishable as provided in
 1856 s. 775.082, s. 775.083, or s. 775.084. Each day of continued

26-00433-17 20171760__

1857 operation is a separate offense.

1858 Section 66. Section 429.176, Florida Statutes, is amended
1859 to read:

1860 429.176 Notice of change of administrator.—If, during the
1861 period for which a license is issued, the owner changes
1862 administrators, the owner must notify the agency of the change
1863 within 10 days and provide documentation within 90 days that the
1864 new administrator has completed the applicable core educational
1865 requirements under s. 429.52. A facility may not be operated for
1866 more than 120 consecutive days without an administrator who has
1867 completed the core educational requirements.

1868 Section 67. Paragraph (h) of subsection (1) of section
1869 429.41, Florida Statutes, is amended to read:

1870 429.41 Rules establishing standards.—

1871 (1) It is the intent of the Legislature that rules
1872 published and enforced pursuant to this section shall include
1873 criteria by which a reasonable and consistent quality of
1874 resident care and quality of life may be ensured and the results
1875 of such resident care may be demonstrated. Such rules shall also
1876 ensure a safe and sanitary environment that is residential and
1877 noninstitutional in design or nature. It is further intended
1878 that reasonable efforts be made to accommodate the needs and
1879 preferences of residents to enhance the quality of life in a
1880 facility. Uniform firesafety standards for assisted living
1881 facilities shall be established by the State Fire Marshal
1882 pursuant to s. 633.206. The agency, in consultation with the
1883 department, may adopt rules to administer the requirements of
1884 part II of chapter 408. In order to provide safe and sanitary
1885 facilities and the highest quality of resident care

26-00433-17 20171760__

1886 accommodating the needs and preferences of residents, the
1887 department, in consultation with the agency, the Department of
1888 Children and Families, and the Department of Health, shall adopt
1889 rules, policies, and procedures to administer this part, which
1890 must include reasonable and fair minimum standards in relation
1891 to:

1892 (h) The care and maintenance of residents, which must
1893 include, but is not limited to:

1894 1. The supervision of residents;

1895 2. The provision of personal services. With the exception
1896 of authorized adult day care services provided within a licensed
1897 assisted living facility, an assisted living facility may not
1898 provide personal services to individuals who are not residents
1899 of the facility;

1900 3. The provision of, or arrangement for, social and leisure
1901 activities;

1902 4. The arrangement for appointments and transportation to
1903 appropriate medical, dental, nursing, or mental health services,
1904 as needed by residents;

1905 5. The management of medication;

1906 6. The nutritional needs of residents;

1907 7. Resident records; and

1908 8. Internal risk management and quality assurance.

1909 Section 68. Subsection (4) of section 456.001, Florida
1910 Statutes, is amended to read:

1911 456.001 Definitions.—As used in this chapter, the term:

1912 (4) "Health care practitioner" means any person licensed
1913 under chapter 457; chapter 458; chapter 459; chapter 460;
1914 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;

26-00433-17

20171760__

chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part II or part III ~~or part IV~~ of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

Section 69. Paragraphs (h) and (i) of subsection (2) of section 456.057, Florida Statutes, are amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished; disclosure of information.—

(2) As used in this section, the terms "records owner," "health care practitioner," and "health care practitioner's employer" do not include any of the following persons or entities; furthermore, the following persons or entities are not authorized to acquire or own medical records, but are authorized under the confidentiality and disclosure requirements of this section to maintain those documents required by the part or chapter under which they are licensed or regulated:

(h) Clinical laboratory personnel licensed under part II ~~III~~ of chapter 483.

(i) Medical physicists licensed under part III ~~IV~~ of chapter 483.

Section 70. Subsection (2) of section 458.307, Florida Statutes, is amended to read:

458.307 Board of Medicine.—

(2) Twelve members of the board must be licensed physicians in good standing in this state who are residents of the state and who have been engaged in the active practice or teaching of medicine for at least 4 years immediately preceding their appointment. One of the physicians must be on the full-time faculty of a medical school in this state, and one of the

26-00433-17

20171760__

physicians must be in private practice and on the full-time staff of a statutory teaching hospital in this state as defined in s. 408.07. At least one of the physicians must be a graduate of a foreign medical school. The remaining three members must be residents of the state who are not, and never have been, licensed health care practitioners. One member must be a health care risk manager ~~licensed under s. 395.10974~~. At least one member of the board must be 60 years of age or older.

Section 71. Subsection (1) of section 458.345, Florida Statutes, is amended to read:

458.345 Registration of resident physicians, interns, and fellows; list of hospital employees; prescribing of medicinal drugs; penalty.—

(1) Any person desiring to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training which leads to subspecialty board certification in this state, or any person desiring to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training in a teaching hospital in this state as defined in s. 408.07(44) ~~408.07(45)~~ or s. 395.805(2), who does not hold a valid, active license issued under this chapter shall apply to the department to be registered and shall remit a fee not to exceed \$300 as set by the board. The department shall register any applicant the board certifies has met the following requirements:

(a) Is at least 21 years of age.

(b) Has not committed any act or offense within or without the state which would constitute the basis for refusal to

26-00433-17 20171760__

1973 certify an application for licensure pursuant to s. 458.331.
 1974 (c) Is a graduate of a medical school or college as
 1975 specified in s. 458.311(1)(f).
 1976 Section 72. Part I of chapter 483, Florida Statutes,
 1977 consisting of sections 483.011, 483.021, 483.031, 483.035,
 1978 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
 1979 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
 1980 is repealed.
 1981 Section 73. Section 483.294, Florida Statutes, is amended
 1982 to read:
 1983 483.294 Inspection of centers.—In accordance with s.
 1984 408.811, the agency shall, ~~at least once annually,~~ inspect the
 1985 premises and operations of all centers subject to licensure
 1986 under this part.
 1987 Section 74. Subsection (3) of section 483.801, Florida
 1988 Statutes, is amended to read:
 1989 483.801 Exemptions.—This part applies to all clinical
 1990 laboratories and clinical laboratory personnel within this
 1991 state, except:
 1992 (3) Persons engaged in testing performed by laboratories
 1993 that are wholly owned and operated by one or more practitioners
 1994 who are licensed under chapter 458, chapter 459, chapter 460,
 1995 chapter 461, chapter 462, chapter 463, or chapter 466 and who
 1996 practice in the same group practice, and in which no clinical
 1997 laboratory work is performed for patients referred by any health
 1998 care provider who is not a member of the same group regulated
 1999 under s. 483.035(1) or exempt from regulation under s.
 2000 483.031(2).
 2001 Section 75. Subsections (2), (3), and (4) of section

26-00433-17 20171760__

2002 483.803, Florida Statutes, are amended to read:
 2003 483.803 Definitions.—As used in this part, the term:
 2004 ~~(2) "Clinical laboratory" means a clinical laboratory as~~
 2005 ~~defined in s. 483.041.~~
 2006 ~~(3) "Clinical laboratory examination" means a clinical~~
 2007 ~~laboratory examination as defined in s. 483.041.~~
 2008 ~~(2)(4)~~ "Clinical laboratory personnel" includes a clinical
 2009 laboratory director, supervisor, technologist, blood gas
 2010 analyst, or technician who performs or is responsible for
 2011 laboratory test procedures, but the term does not include
 2012 trainees, persons who perform screening for blood banks or
 2013 plasmapheresis centers, phlebotomists, or persons employed by a
 2014 clinical laboratory to perform manual pretesting duties or
 2015 clerical, personnel, or other administrative responsibilities,
 2016 ~~or persons engaged in testing performed by laboratories~~
 2017 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
 2018 ~~483.031(2).~~
 2019 Section 76. Section 483.813, Florida Statutes, is amended
 2020 to read:
 2021 483.813 Clinical laboratory personnel license.—A person may
 2022 not conduct a clinical laboratory examination or report the
 2023 results of such examination unless such person is licensed under
 2024 this part to perform such procedures. However, this provision
 2025 does not apply to any practitioner of the healing arts
 2026 authorized to practice in this state ~~or to persons engaged in~~
 2027 ~~testing performed by laboratories regulated under s. 483.035(1)~~
 2028 ~~or exempt from regulation under s. 483.031(2).~~ The department
 2029 may grant a temporary license to any candidate it deems properly
 2030 qualified, for a period not to exceed 1 year.

26-00433-17

20171760

Section 77. Paragraph (c) of subsection (7), paragraph (c) of subsection (8), and paragraph (c) of subsection (9) of section 491.003, Florida Statutes, are amended to read:

491.003 Definitions.—As used in this chapter:

(7) The “practice of clinical social work” is defined as the use of scientific and applied knowledge, theories, and methods for the purpose of describing, preventing, evaluating, and treating individual, couple, marital, family, or group behavior, based on the person-in-situation perspective of psychosocial development, normal and abnormal behavior, psychopathology, unconscious motivation, interpersonal relationships, environmental stress, differential assessment, differential planning, and data gathering. The purpose of such services is the prevention and treatment of undesired behavior and enhancement of mental health. The practice of clinical social work includes methods of a psychological nature used to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, and substance abuse. The practice of clinical social work includes, but is not limited to, psychotherapy, hypnotherapy, and sex therapy. The practice of clinical social work also includes counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients, when using methods of a psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders,

26-00433-17

20171760

alcoholism, or substance abuse. The practice of clinical social work may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

(c) The terms “diagnose” and “treat,” as used in this chapter, when considered in isolation or in conjunction with any provision of the rules of the board, shall not be construed to permit the performance of any act which clinical social workers are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures ~~pursuant to chapter 483~~, or radiological procedures, or use of electroconvulsive therapy. In addition, this definition shall not be construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as “psychological,” except to relate specifically to the definition of practice authorized in this subsection.

(8) The “practice of marriage and family therapy” is defined as the use of scientific and applied marriage and family theories, methods, and procedures for the purpose of describing, evaluating, and modifying marital, family, and individual behavior, within the context of marital and family systems, including the context of marital formation and dissolution, and is based on marriage and family systems theory, marriage and family development, human development, normal and abnormal behavior, psychopathology, human sexuality, psychotherapeutic

26-00433-17

20171760

2089 and marriage and family therapy theories and techniques. The
 2090 practice of marriage and family therapy includes methods of a
 2091 psychological nature used to evaluate, assess, diagnose, treat,
 2092 and prevent emotional and mental disorders or dysfunctions
 2093 (whether cognitive, affective, or behavioral), sexual
 2094 dysfunction, behavioral disorders, alcoholism, and substance
 2095 abuse. The practice of marriage and family therapy includes, but
 2096 is not limited to, marriage and family therapy, psychotherapy,
 2097 including behavioral family therapy, hypnotherapy, and sex
 2098 therapy. The practice of marriage and family therapy also
 2099 includes counseling, behavior modification, consultation,
 2100 client-centered advocacy, crisis intervention, and the provision
 2101 of needed information and education to clients, when using
 2102 methods of a psychological nature to evaluate, assess, diagnose,
 2103 treat, and prevent emotional and mental disorders and
 2104 dysfunctions (whether cognitive, affective, or behavioral),
 2105 sexual dysfunction, behavioral disorders, alcoholism, or
 2106 substance abuse. The practice of marriage and family therapy may
 2107 also include clinical research into more effective
 2108 psychotherapeutic modalities for the treatment and prevention of
 2109 such conditions.

2110 (c) The terms "diagnose" and "treat," as used in this
 2111 chapter, when considered in isolation or in conjunction with any
 2112 provision of the rules of the board, shall not be construed to
 2113 permit the performance of any act which marriage and family
 2114 therapists are not educated and trained to perform, including,
 2115 but not limited to, admitting persons to hospitals for treatment
 2116 of the foregoing conditions, treating persons in hospitals
 2117 without medical supervision, prescribing medicinal drugs as

26-00433-17

20171760

2118 defined in chapter 465, authorizing clinical laboratory
 2119 procedures ~~pursuant to chapter 483~~, or radiological procedures,
 2120 or use of electroconvulsive therapy. In addition, this
 2121 definition shall not be construed to permit any person licensed,
 2122 provisionally licensed, registered, or certified pursuant to
 2123 this chapter to describe or label any test, report, or procedure
 2124 as "psychological," except to relate specifically to the
 2125 definition of practice authorized in this subsection.

2126 (9) The "practice of mental health counseling" is defined
 2127 as the use of scientific and applied behavioral science
 2128 theories, methods, and techniques for the purpose of describing,
 2129 preventing, and treating undesired behavior and enhancing mental
 2130 health and human development and is based on the person-in-
 2131 situation perspectives derived from research and theory in
 2132 personality, family, group, and organizational dynamics and
 2133 development, career planning, cultural diversity, human growth
 2134 and development, human sexuality, normal and abnormal behavior,
 2135 psychopathology, psychotherapy, and rehabilitation. The practice
 2136 of mental health counseling includes methods of a psychological
 2137 nature used to evaluate, assess, diagnose, and treat emotional
 2138 and mental dysfunctions or disorders (whether cognitive,
 2139 affective, or behavioral), behavioral disorders, interpersonal
 2140 relationships, sexual dysfunction, alcoholism, and substance
 2141 abuse. The practice of mental health counseling includes, but is
 2142 not limited to, psychotherapy, hypnotherapy, and sex therapy.
 2143 The practice of mental health counseling also includes
 2144 counseling, behavior modification, consultation, client-centered
 2145 advocacy, crisis intervention, and the provision of needed
 2146 information and education to clients, when using methods of a

26-00433-17

20171760__

psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), behavioral disorders, sexual dysfunction, alcoholism, or substance abuse. The practice of mental health counseling may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

(c) The terms "diagnose" and "treat," as used in this chapter, when considered in isolation or in conjunction with any provision of the rules of the board, shall not be construed to permit the performance of any act which mental health counselors are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures pursuant to chapter 483, or radiological procedures, or use of electroconvulsive therapy. In addition, this definition shall not be construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as "psychological," except to relate specifically to the definition of practice authorized in this subsection.

Section 78. Paragraph (h) of subsection (4) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

(h) As used in this subsection:

1. "Health care provider" means hospitals licensed under

26-00433-17

20171760__

chapter 395; physicians licensed under chapter 458; osteopathic physicians licensed under chapter 459; podiatric physicians licensed under chapter 461; dentists licensed under chapter 466; chiropractic physicians licensed under chapter 460; naturopaths licensed under chapter 462; nurses licensed under part I of chapter 464; midwives licensed under chapter 467; ~~clinical laboratories registered under chapter 483~~; physician assistants licensed under chapter 458 or chapter 459; physical therapists and physical therapist assistants licensed under chapter 486; health maintenance organizations certificated under part I of chapter 641; ambulatory surgical centers licensed under chapter 395; other medical facilities as defined in subparagraph 2.; blood banks, plasma centers, industrial clinics, and renal dialysis facilities; or professional associations, partnerships, corporations, joint ventures, or other associations for professional activity by health care providers.

2. "Other medical facility" means a facility the primary purpose of which is to provide human medical diagnostic services or a facility providing nonsurgical human medical treatment, to which facility the patient is admitted and from which facility the patient is discharged within the same working day, and which facility is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy or an office maintained by a physician or dentist for the practice of medicine shall not be construed to be an "other medical facility."

3. "Health care facility" means any hospital licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, ambulatory surgical center licensed under

26-00433-17 20171760__

chapter 395, or other medical facility as defined in subparagraph 2.

Section 79. Paragraph (h) of subsection (1) of section 627.602, Florida Statutes, is amended to read:

627.602 Scope, format of policy.—

(1) Each health insurance policy delivered or issued for delivery to any person in this state must comply with all applicable provisions of this code and all of the following requirements:

(h) Section 641.312 and the provisions of the Employee Retirement Income Security Act of 1974, as implemented by 29 C.F.R. s. 2560.503-1, relating to internal grievances. This paragraph does not apply to a health insurance policy that is subject to the Subscriber Assistance Program under s. 408.7056 or to the types of benefits or coverages provided under s. 627.6513(1)-(14) issued in any market.

Section 80. Paragraphs (b) and (e) of subsection (1) of section 627.64194, Florida Statutes, are amended to read:

627.64194 Coverage requirements for services provided by nonparticipating providers; payment collection limitations.—

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

(b) "Facility" means a licensed facility as defined in s. 395.002(16) and an urgent care center as defined in s. 395.002(29) ~~s. 395.002(30)~~.

(e) "Nonparticipating provider" means a provider who is not a preferred provider as defined in s. 627.6471 or a provider who is not an exclusive provider as defined in s. 627.6472. For purposes of covered emergency services under this section, a facility licensed under chapter 395 or an urgent care center

26-00433-17 20171760__

defined in s. 395.002(29) ~~395.002(30)~~ is a nonparticipating provider if the facility has not contracted with an insurer to provide emergency services to its insureds at a specified rate.

Section 81. Section 627.6513, Florida Statutes, is amended to read:

627.6513 Scope.—Section 641.312 and the provisions of the Employee Retirement Income Security Act of 1974, as implemented by 29 C.F.R. s. 2560.503-1, relating to internal grievances, apply to all group health insurance policies issued under this part. This section does not apply to a ~~group health insurance policy that is subject to the Subscriber Assistance Program in s. 408.7056 or to:~~

- (1) Coverage only for accident insurance, or disability income insurance, or any combination thereof.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Liability insurance, including general liability insurance and automobile liability insurance.
- (4) Workers' compensation or similar insurance.
- (5) Automobile medical payment insurance.
- (6) Credit-only insurance.
- (7) Coverage for onsite medical clinics, including prepaid health clinics under part II of chapter 641.
- (8) Other similar insurance coverage, specified in rules adopted by the commission, under which benefits for medical care are secondary or incidental to other insurance benefits. To the extent possible, such rules must be consistent with regulations adopted by the United States Department of Health and Human Services.
- (9) Limited scope dental or vision benefits, if offered

26-00433-17 20171760__

2263 separately.

2264 (10) Benefits for long-term care, nursing home care, home
2265 health care, or community-based care, or any combination
2266 thereof, if offered separately.

2267 (11) Other similar, limited benefits, if offered
2268 separately, as specified in rules adopted by the commission.

2269 (12) Coverage only for a specified disease or illness, if
2270 offered as independent, noncoordinated benefits.

2271 (13) Hospital indemnity or other fixed indemnity insurance,
2272 if offered as independent, noncoordinated benefits.

2273 (14) Benefits provided through a Medicare supplemental
2274 health insurance policy, as defined under s. 1882(g)(1) of the
2275 Social Security Act, coverage supplemental to the coverage
2276 provided under 10 U.S.C. chapter 55, and similar supplemental
2277 coverage provided to coverage under a group health plan, which
2278 are offered as a separate insurance policy and as independent,
2279 noncoordinated benefits.

2280 Section 82. Effective January 1, 2018, paragraph (j) of
2281 subsection (1) of section 641.185, Florida Statutes, is amended
2282 to read:

2283 641.185 Health maintenance organization subscriber
2284 protections.—

2285 (1) With respect to the provisions of this part and part
2286 III, the principles expressed in the following statements shall
2287 serve as standards to be followed by the commission, the office,
2288 the department, and the Agency for Health Care Administration in
2289 exercising their powers and duties, in exercising administrative
2290 discretion, in administrative interpretations of the law, in
2291 enforcing its provisions, and in adopting rules:

26-00433-17 20171760__

2292 ~~(j) A health maintenance organization should receive timely~~
2293 ~~and, if necessary, urgent review by an independent state~~
2294 ~~external review organization for unresolved grievances and~~
2295 ~~appeals pursuant to s. 408.7056.~~

2296 Section 83. Effective January 1, 2018, section 641.312,
2297 Florida Statutes, is amended to read:

2298 641.312 Scope.—The Office of Insurance Regulation may adopt
2299 rules to administer the provisions of the National Association
2300 of Insurance Commissioners' Uniform Health Carrier External
2301 Review Model Act, issued by the National Association of
2302 Insurance Commissioners and dated April 2010. This section does
2303 not apply to ~~a health maintenance contract that is subject to~~
2304 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
2305 types of benefits or coverages provided under s. 627.6513(1)-
2306 (14) issued in any market.

2307 Section 84. Effective January 1, 2018, subsection (4) of
2308 section 641.3154, Florida Statutes, is amended to read:

2309 641.3154 Organization liability; provider billing
2310 prohibited.—

2311 (4) A provider or any representative of a provider,
2312 regardless of whether the provider is under contract with the
2313 health maintenance organization, may not collect or attempt to
2314 collect money from, maintain any action at law against, or
2315 report to a credit agency a subscriber of an organization for
2316 payment of services for which the organization is liable, if the
2317 provider in good faith knows or should know that the
2318 organization is liable. This prohibition applies during the
2319 pendency of any claim for payment made by the provider to the
2320 organization for payment of the services and any legal

26-00433-17 20171760

proceedings or dispute resolution process to determine whether the organization is liable for the services if the provider is informed that such proceedings are taking place. It is presumed that a provider does not know and should not know that an organization is liable unless:

(a) The provider is informed by the organization that it accepts liability;

(b) A court of competent jurisdiction determines that the organization is liable; or

~~(c) The office or agency makes a final determination that the organization is required to pay for such services subsequent to a recommendation made by the Subscriber Assistance Panel pursuant to s. 408.7056; or~~

(c) ~~(d)~~ The agency issues a final order that the organization is required to pay for such services subsequent to a recommendation made by a resolution organization pursuant to s. 408.7057.

Section 85. Effective January 1, 2018, paragraph (c) of subsection (5) of section 641.51, Florida Statutes, is amended to read:

641.51 Quality assurance program; second medical opinion requirement.—

(5)

(c) For second opinions provided by contract physicians the organization is prohibited from charging a fee to the subscriber in an amount in excess of the subscriber fees established by contract for referral contract physicians. The organization shall pay the amount of all charges, which are usual, reasonable, and customary in the community, for second opinion

26-00433-17 20171760

services performed by a physician not under contract with the organization, but may require the subscriber to be responsible for up to 40 percent of such amount. The organization may require that any tests deemed necessary by a noncontract physician shall be conducted by the organization. The organization may deny reimbursement rights granted under this section in the event the subscriber seeks in excess of three such referrals per year if such subsequent referral costs are deemed by the organization to be evidence that the subscriber has unreasonably overutilized the second opinion privilege. A subscriber thus denied reimbursement under this section shall have recourse to grievance procedures as specified in ss. ~~408.7056~~, 641.495, and 641.511. The organization's physician's professional judgment concerning the treatment of a subscriber derived after review of a second opinion shall be controlling as to the treatment obligations of the health maintenance organization. Treatment not authorized by the health maintenance organization shall be at the subscriber's expense.

Section 86. Effective January 1, 2018, section 641.511, Florida Statutes, is amended to read:

641.511 Subscriber grievance reporting and resolution requirements.—

(1) Every organization must have a grievance procedure available to its subscribers for the purpose of addressing complaints and grievances. ~~Every organization must notify its subscribers that a subscriber must submit a grievance within 1 year after the date of occurrence of the action that initiated the grievance, and may submit the grievance for review to the Subscriber Assistance Program panel as provided in s. 408.7056~~

26-00433-17

20171760__

~~after receiving a final disposition of the grievance through the organization's grievance process. An organization shall maintain records of all grievances and shall report annually to the agency the total number of grievances handled, a categorization of the cases underlying the grievances, and the final disposition of the grievances.~~

(2) When an organization receives an initial complaint from a subscriber, the organization must respond to the complaint within a reasonable time after its submission. At the time of receipt of the initial complaint, the organization shall inform the subscriber that the subscriber has a right to file a written grievance at any time and that assistance in preparing the written grievance shall be provided by the organization.

(3) Each organization's grievance procedure, as required under subsection (1), must include, at a minimum:

(a) An explanation of how to pursue redress of a grievance.

(b) The names of the appropriate employees or a list of grievance departments that are responsible for implementing the organization's grievance procedure. The list must include the address and the toll-free telephone number of each grievance department, the address of the agency and its toll-free telephone hotline number, and the address of the Subscriber Assistance Program and its toll-free telephone number.

(c) The description of the process through which a subscriber may, at any time, contact the toll-free telephone hotline of the agency to inform it of the unresolved grievance.

(d) A procedure for establishing methods for classifying grievances as urgent and for establishing time limits for an expedited review within which such grievances must be resolved.

26-00433-17

20171760__

(e) A notice that a subscriber may voluntarily pursue binding arbitration in accordance with the terms of the contract if offered by the organization, after completing the organization's grievance procedure ~~and as an alternative to the Subscriber Assistance Program~~. Such notice shall include an explanation that the subscriber may incur some costs if the subscriber pursues binding arbitration, depending upon the terms of the subscriber's contract.

(f) A process whereby the grievance manager acknowledges the grievance and investigates the grievance in order to notify the subscriber of a final decision in writing.

(g) A procedure for providing individuals who are unable to submit a written grievance with access to the grievance process, which shall include assistance by the organization in preparing the grievance and communicating back to the subscriber.

(4) (a) With respect to a grievance concerning an adverse determination, an organization shall make available to the subscriber a review of the grievance by an internal review panel; such review must be requested within 30 days after the organization's transmittal of the final determination notice of an adverse determination. A majority of the panel shall be persons who previously were not involved in the initial adverse determination. A person who previously was involved in the adverse determination may appear before the panel to present information or answer questions. The panel shall have the authority to bind the organization to the panel's decision.

(b) An organization shall ensure that a majority of the persons reviewing a grievance involving an adverse determination are providers who have appropriate expertise. An organization

26-00433-17 20171760__

shall issue a copy of the written decision of the review panel to the subscriber and to the provider, if any, who submits a grievance on behalf of a subscriber. In cases where there has been a denial of coverage of service, the reviewing provider shall not be a provider previously involved with the adverse determination.

(c) An organization shall establish written procedures for a review of an adverse determination. Review procedures shall be available to the subscriber and to a provider acting on behalf of a subscriber.

~~(d) In any case when the review process does not resolve a difference of opinion between the organization and the subscriber or the provider acting on behalf of the subscriber, the subscriber or the provider acting on behalf of the subscriber may submit a written grievance to the Subscriber Assistance Program.~~

(5) Except as provided in subsection (6), the organization shall resolve a grievance within 60 days after receipt of the grievance, or within a maximum of 90 days if the grievance involves the collection of information outside the service area. These time limitations are tolled if the organization has notified the subscriber, in writing, that additional information is required for proper review of the grievance and that such time limitations are tolled until such information is provided. After the organization receives the requested information, the time allowed for completion of the grievance process resumes. The Employee Retirement Income Security Act of 1974, as implemented by 29 C.F.R. s. 2560.503-1, is adopted and incorporated by reference as applicable to all organizations

26-00433-17 20171760__

that administer small and large group health plans that are subject to 29 C.F.R. s. 2560.503-1. The claims procedures of the regulations of the Employee Retirement Income Security Act of 1974, as implemented by 29 C.F.R. s. 2560.503-1, shall be the minimum standards for grievance processes for claims for benefits for small and large group health plans that are subject to 29 C.F.R. s. 2560.503-1.

(6) (a) An organization shall establish written procedures for the expedited review of an urgent grievance. A request for an expedited review may be submitted orally or in writing and shall be subject to the review procedures of this section, if it meets the criteria of this section. Unless it is submitted in writing, for purposes of the grievance reporting requirements in subsection (1), the request shall be considered an appeal of a utilization review decision and not a grievance. Expedited review procedures shall be available to a subscriber and to the provider acting on behalf of a subscriber. For purposes of this subsection, "subscriber" includes the legal representative of a subscriber.

(b) Expedited reviews shall be evaluated by an appropriate clinical peer or peers. The clinical peer or peers shall not have been involved in the initial adverse determination.

(c) In an expedited review, all necessary information, including the organization's decision, shall be transmitted between the organization and the subscriber, or the provider acting on behalf of the subscriber, by telephone, facsimile, or the most expeditious method available.

(d) In an expedited review, an organization shall make a decision and notify the subscriber, or the provider acting on

26-00433-17 20171760

2495 behalf of the subscriber, as expeditiously as the subscriber's
2496 medical condition requires, but in no event more than 72 hours
2497 after receipt of the request for review. If the expedited review
2498 is a concurrent review determination, the service shall be
2499 continued without liability to the subscriber until the
2500 subscriber has been notified of the determination.

2501 (e) An organization shall provide written confirmation of
2502 its decision concerning an expedited review within 2 working
2503 days after providing notification of that decision, if the
2504 initial notification was not in writing.

2505 (f) An organization shall provide reasonable access, not to
2506 exceed 24 hours after receiving a request for an expedited
2507 review, to a clinical peer who can perform the expedited review.

2508 ~~(g) In any case when the expedited review process does not~~
2509 ~~resolve a difference of opinion between the organization and the~~
2510 ~~subscriber or the provider acting on behalf of the subscriber,~~
2511 ~~the subscriber or the provider acting on behalf of the~~
2512 ~~subscriber may submit a written grievance to the Subscriber~~
2513 ~~Assistance Program.~~

2514 (g) (h) An organization shall not provide an expedited
2515 retrospective review of an adverse determination.

2516 ~~(7) Each organization shall send to the agency a copy of~~
2517 ~~its quarterly grievance reports submitted to the office pursuant~~
2518 ~~to s. 408.7056(12).~~

2519 (7) (8) The agency shall investigate all reports of
2520 unresolved quality of care grievances received from

2521 ~~(a)~~ annual and quarterly grievance reports submitted by the
2522 organization to the office.

2523 ~~(b) Review requests of subscribers whose grievances remain~~

26-00433-17 20171760

2524 ~~unresolved after the subscriber has followed the full grievance~~
2525 ~~procedure of the organization.~~

2526 ~~(9) (a) The agency shall advise subscribers with grievances~~
2527 ~~to follow their organization's formal grievance process for~~
2528 ~~resolution prior to review by the Subscriber Assistance Program.~~
2529 ~~The subscriber may, however, submit a copy of the grievance to~~
2530 ~~the agency at any time during the process.~~

2531 ~~(b) Requiring completion of the organization's grievance~~
2532 ~~process before the Subscriber Assistance Program panel's review~~
2533 ~~does not preclude the agency from investigating any complaint or~~
2534 ~~grievance before the organization makes its final determination.~~

2535 ~~(10) Each organization must notify the subscriber in a~~
2536 ~~final decision letter that the subscriber may request review of~~
2537 ~~the organization's decision concerning the grievance by the~~
2538 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~
2539 ~~the grievance is not resolved to the satisfaction of the~~
2540 ~~subscriber. The final decision letter must inform the subscriber~~
2541 ~~that the request for review must be made within 365 days after~~
2542 ~~receipt of the final decision letter, must explain how to~~
2543 ~~initiate such a review, and must include the addresses and toll-~~
2544 ~~free telephone numbers of the agency and the Subscriber~~
2545 ~~Assistance Program.~~

2546 (8) (11) Each organization, as part of its contract with any
2547 provider, must require the provider to post a consumer
2548 assistance notice prominently displayed in the reception area of
2549 the provider and clearly noticeable by all patients. The
2550 consumer assistance notice must state the addresses and toll-
2551 free telephone numbers of the Agency for Health Care
2552 Administration, ~~the Subscriber Assistance Program, and the~~

26-00433-17

20171760__

Department of Financial Services. The consumer assistance notice must also clearly state that the address and toll-free telephone number of the organization's grievance department shall be provided upon request. The agency may adopt rules to implement this section.

~~(9)(12)~~ The agency may impose administrative sanction, in accordance with s. 641.52, against an organization for noncompliance with this section.

Section 87. Effective January 1, 2018, subsection (1) of section 641.515, Florida Statutes, is amended to read:

641.515 Investigation by the agency.—

(1) The agency shall investigate further any quality of care issue contained in recommendations and reports submitted pursuant to ~~ss. 408.7056 and s.~~ 641.511. The agency shall also investigate further any information that indicates that the organization does not meet accreditation standards or the standards of the review organization performing the external quality assurance assessment pursuant to reports submitted under s. 641.512. Every organization shall submit its books and records and take other appropriate action as may be necessary to facilitate an examination. The agency shall have access to the organization's medical records of individuals and records of employed and contracted physicians, with the consent of the subscriber or by court order, as necessary to carry out the provisions of this part.

Section 88. Effective January 1, 2018, subsection (2) of section 641.55, Florida Statutes, is amended to read:

641.55 Internal risk management program.—

(2) The risk management program shall be the responsibility

Page 89 of 94

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

26-00433-17

20171760__

of the governing authority or board of the organization. Every organization which has an annual premium volume of \$10 million or more and which directly provides health care in a building owned or leased by the organization shall hire a risk manager, ~~certified under ss. 395.10971-395.10975,~~ who shall be responsible for implementation of the organization's risk management program required by this section. A part-time risk manager shall not be responsible for risk management programs in more than four organizations or facilities. Every organization which does not directly provide health care in a building owned or leased by the organization and every organization with an annual premium volume of less than \$10 million shall designate an officer or employee of the organization to serve as the risk manager.

The gross data compiled under this section or s. 395.0197 shall be furnished by the agency upon request to organizations to be utilized for risk management purposes. The agency shall adopt rules necessary to carry out the provisions of this section.

Section 89. Section 641.60, Florida Statutes, is repealed.

Section 90. Section 641.70, Florida Statutes, is amended to read:

641.70 Agency duties relating to ~~the Statewide Managed Care Ombudsman Committee and~~ the district managed care ombudsman committees.—

(1) The agency shall adopt rules that specify:

(a) Procedures by which ~~the statewide committee and~~ district committees receive reports of enrollee complaints from the agency.

Page 90 of 94

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

26-00433-17

20171760

2611 (b) Procedures by which enrollee information shall be made
 2612 available ~~to members of the statewide committee and to the~~
 2613 district committees.

2614 (c) Procedures by which recommendations made by the
 2615 committees shall be considered for incorporation into policies
 2616 and procedures of the agency.

2617 ~~(d) Procedures by which statewide committee members shall~~
 2618 ~~be reimbursed for authorized expenditures.~~

2619 ~~(d) (e)~~ Any other procedures that are necessary to
 2620 administer this section and ~~ss. 641.60 and s. 641.65.~~

2621 (2) The Agency for Health Care Administration shall provide
 2622 a meeting place for district committees in agency offices and
 2623 shall provide the necessary administrative support to assist ~~the~~
 2624 ~~statewide committee and~~ district committees, within available
 2625 resources.

2626 (3) The secretary of the agency shall ensure the full
 2627 cooperation and assistance of agency employees with ~~members of~~
 2628 ~~the statewide committee and~~ district committees.

2629 Section 91. Subsection (3) of section 641.75, Florida
 2630 Statutes, is amended to read:

2631 641.75 Immunity from liability; limitation on testimony.—

2632 (3) Members of any state or district ombudsman committee
 2633 shall not be required to testify in any court with respect to
 2634 matters held to be confidential except as may be necessary to
 2635 enforce ss. 641.61-641.75 ~~641.60-641.75.~~

2636 Section 92. Paragraph (b) of subsection (6) of section
 2637 766.118, Florida Statutes, is amended to read:

2638 766.118 Determination of noneconomic damages.—

2639 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A

26-00433-17

20171760

2640 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
 2641 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
 2642 respect to a cause of action for personal injury or wrongful
 2643 death arising from medical negligence of a practitioner
 2644 committed in the course of providing medical services and
 2645 medical care to a Medicaid recipient, regardless of the number
 2646 of such practitioner defendants providing the services and care,
 2647 noneconomic damages may not exceed \$300,000 per claimant, unless
 2648 the claimant pleads and proves, by clear and convincing
 2649 evidence, that the practitioner acted in a wrongful manner. A
 2650 practitioner providing medical services and medical care to a
 2651 Medicaid recipient is not liable for more than \$200,000 in
 2652 noneconomic damages, regardless of the number of claimants,
 2653 unless the claimant pleads and proves, by clear and convincing
 2654 evidence, that the practitioner acted in a wrongful manner. The
 2655 fact that a claimant proves that a practitioner acted in a
 2656 wrongful manner does not preclude the application of the
 2657 limitation on noneconomic damages prescribed elsewhere in this
 2658 section. For purposes of this subsection:

2659 (b) The term "practitioner," in addition to the meaning
 2660 prescribed in subsection (1), includes any hospital ~~or~~
 2661 ambulatory surgical center, ~~or mobile surgical facility~~ as
 2662 defined and licensed under chapter 395.

2663 Section 93. Subsection (4) of section 766.202, Florida
 2664 Statutes, is amended to read:

2665 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
 2666 766.201-766.212, the term:

2667 (4) "Health care provider" means any hospital ~~or~~
 2668 ambulatory surgical center, ~~or mobile surgical facility~~ as

26-00433-17 20171760__

defined and licensed under chapter 395; a birth center licensed under chapter 383; any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, part I of chapter 464, chapter 466, chapter 467, part XIV of chapter 468, or chapter 486; ~~a clinical lab licensed under chapter 483~~; a health maintenance organization certificated under part I of chapter 641; a blood bank; a plasma center; an industrial clinic; a renal dialysis facility; or a professional association partnership, corporation, joint venture, or other association for professional activity by health care providers.

Section 94. Subsection (1) of section 945.36, Florida Statutes, is amended to read:

945.36 ~~Exemption from health testing regulations for Law enforcement personnel authorized to conduct conducting~~ drug tests on inmates and releasees.—

(1) Any law enforcement officer, state or county probation officer, or employee of the Department of Corrections, who is certified by the Department of Corrections pursuant to subsection (2), may administer ~~is exempt from part I of chapter 483, for the limited purpose of administering~~ a urine screen drug test to:

- (a) Persons during incarceration;
- (b) Persons released as a condition of probation for either a felony or misdemeanor;
- (c) Persons released as a condition of community control;
- (d) Persons released as a condition of conditional release;
- (e) Persons released as a condition of parole;
- (f) Persons released as a condition of provisional release;
- (g) Persons released as a condition of pretrial release; or

26-00433-17 20171760__

(h) Persons released as a condition of control release.

Section 95. Paragraph (b) of subsection (2) of section 1009.65, Florida Statutes, is amended to read:

1009.65 Medical Education Reimbursement and Loan Repayment Program.—

(2) From the funds available, the Department of Health shall make payments to selected medical professionals as follows:

(b) All payments shall be contingent on continued proof of primary care practice in an area defined in s. 395.602 (2) (b) ~~395.602 (2) (e)~~, or an underserved area designated by the Department of Health, provided the practitioner accepts Medicaid reimbursement if eligible for such reimbursement. Correctional facilities, state hospitals, and other state institutions that employ medical personnel shall be designated by the Department of Health as underserved locations. Locations with high incidences of infant mortality, high morbidity, or low Medicaid participation by health care professionals may be designated as underserved.

Section 96. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 7030

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Retirement

DATE: April 28, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Ferrin	Ferrin		GO Submitted as Comm. Bill/Fav
2. McVaney	Hansen	AP	Pre-meeting

I. Summary:

SB 7030 provides that any condition or impairment of the health of a firefighter employed full-time by a state or local government which is caused by multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, or testicular cancer and results in total or partial disability or death is presumed to have been accidental and to have been suffered "in the line of duty" unless the contrary is shown by competent evidence. In the line of duty retirement compensates an employee whose disability or death arises out of and in the actual performance of employment, and provides greater compensation to the firefighter or his or her dependents than would otherwise be available. Certain criteria must be met in order to meet the presumption.

The bill also makes the following changes to the Florida Retirement System (FRS):

- Allows for renewed membership in the investment plan or one of the optional annuity retirement plans for certain former participants of those plans;
- Expands the survivor benefit for investment plan members killed in the line of duty, including Special Risk Class, by making them retroactive to 2002;
- Closes the Senior Management Service Optional Annuity Program; and
- Changes the default from the pension plan to the investment plan for members of the FRS initially enrolled after January 1, 2018.

To cover the immediate costs of the proposed changes, the bill provides adjustments to the contribution rates that fund the FRS's normal costs and unfunded actuarial liability, and adjusts the rates for transferring funds to provide in line of duty death benefits for investment plan members. The system-wide costs associated with the benefits enhancements provided by this bill are expected to be \$10.4 million annually. Of this amount, \$2.8 million will be paid from the General Revenue Fund, \$0.9 million will be paid from various state trust funds, and local governments will pay \$6.7 million. In addition, participating employers will incur \$9.3 million annually system-wide to pay for the retirement contributions associated with renewed members participating in the investment plan.

The bill provides a legislative determination that the act fulfills an important state interest.

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

II. Present Situation:

Florida Retirement System

The FRS was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with most members contributing three percent of their salaries.²

The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2016, the FRS had 630,350 active members, 394,907 annuitants, 16,248 disabled retirees, and 29,602 active participants of the Deferred Retirement Option Program (DROP).³ As of June 30, 2016, the FRS consisted of 1,029 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 193 cities and 270 special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- The Regular Class⁵ consists of 545,680 active members, plus 3,709 in renewed membership;
 - The Special Risk Class⁶ includes 70,695 active members;
 - The Special Risk Administrative Support Class⁷ has 76 active members;
 - The Elected Officers' Class⁸ has 2,026 active members, plus 115 in renewed membership;
- and

¹ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at p. 29. Available online at: https://www.rol.frs.state.fl.us/forms/2015-16_CAFR.pdf.

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

³ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 120.

⁴ *Id.*, at 154.

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁷ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁸ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

- The Senior Management Service Class⁹ has 7,876 members, plus 143 in renewed membership.¹⁰

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

FRS Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹¹ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹²

A member vests immediately in all employee contributions paid to the investment plan.¹³ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁴ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁵

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers. The amount of money contributed to each member's account varies by class as follows:

⁹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹⁰ All figures from Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 123.

¹¹ Section 121.4501(8), F.S.

¹² Section 4(e), Art. IV, Fla. Const.

¹³ Section 121.4501(6)(a), F.S.

¹⁴ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.

¹⁵ Section 121.591, F.S.

Membership Class	Percentage of Gross Compensation¹⁶
Regular Class	6.30%
Special Risk Class	14.00%
Special Risk Administrative Support Class	7.95%
Elected Officers' Class - Justices and Judges - County Elected Officers - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defender	13.23% 11.34% 9.38%
Senior Management Service Class	7.67%

FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement (division).¹⁷ Investment management is handled by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁸ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.¹⁹ A member vests immediately in all employee contributions paid to the pension plan.

Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final compensation.²⁰ The accrual rate varies by class as follows:

Membership Class	Accrual Rate
Regular Class	1.60%, 1.63%, 1.65%, 1.68% ²¹
Special Risk Class	3.00%
Special Risk Administrative Support Class	1.60%, 1.63%, 1.65%, 1.68% ²²
Elected Officers' Class - Justices and Judges - County Elected Officers - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defender	3.33% 3.00% 3.00%
Senior Management Service Class	2.00%

¹⁶ Includes the three percent employee contribution.

¹⁷ Section 121.025, F.S.

¹⁸ Section 121.021(45)(a), F.S.

¹⁹ Section 121.021(45)(b), F.S.

²⁰ Section 121.091, F.S.

²¹ Section 121.091(1)(a)1., F.S.

²² Section 121.0515(8)(a), F.S.

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.²³ For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²⁴ Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.²⁵

Default and Second Election

A new member has until the last business day of the fifth month following the member's month of hire to make a plan selection. If the member fails to make a selection, the member defaults to participation in the pension plan.²⁶

After the initial election or default election to participate in either the pension plan or investment plan, a member has one opportunity, at the member's discretion and prior to termination or retirement, to choose to move from the pension plan to the investment plan or from the investment plan to the pension plan.²⁷

Disability Retirement Benefits for Members of the FRS

Two types of disability retirement are available under the FRS: in the line of duty disability retirement and regular disability retirement. To qualify for either type of disability retirement, a member must be totally and permanently disabled to the extent that they are unable to work. An employee who is physically or mentally unable to continue performing in his or her present occupation, but is able to perform another type of work, will not qualify for disability benefits.²⁸ To be eligible for regular disability retirement under the FRS, members must complete 8 years of creditable service.²⁹

Under the FRS pension plan, the minimum benefit under regular disability retirement is 25 percent of the employee's average final compensation.³⁰ The in the line of duty disability benefit is available to members on their first day of employment and is 42 percent of the employee's monthly compensation.³¹ There is no vesting period for in the line of duty disability benefits.³² Special Risk Class members receive a minimum in the line of duty disability benefit of 65 percent of their average final compensation.³³

²³ Section 121.021(29)(a)1., F.S.

²⁴ Section 121.021(29)(b)1., F.S.

²⁵ Section 121.021(29)(a)2. and (b)2., F.S.

²⁶ Section 121.4501(4), F.S.

²⁷ Section 121.4501(4)(g), F.S.

²⁸ Florida Retirement System Employer Handbook, Disability Retirement, Ch. 10-3, available at https://www.rol.frs.state.fl.us/forms/EH_ch10.pdf (last visited Jan. 19, 2017).

²⁹ Sections 121.091(4)(a) and 121.591(2)(b), F.S.

³⁰ Section 121.091(4)(f), F.S.

³¹ *Id.*

³² Section 121.091(4)(a)1.b., F.S.

³³ *Id.*

Under the investment plan, the disability benefits are in lieu of the normal benefits (the accumulations of contributions and investment earnings in the member's account).³⁴ Instead, the member must transfer all of the member's accumulations to the investment plan disability account and will receive a monthly benefit calculated the same as a similarly situated pension plan member.³⁵

Death or Survivor Benefits

Section 121.091(7), F.S., provides death benefits for active members of the FRS pension plan who die before retirement. If an employee dies before vesting, the employee's spouse receives only the accumulated FRS contributions that were made on the employee's behalf. For vested employees, the employee will be assumed to have retired on the date of death, and the spouse may elect one of the annuity options that provide payment to survivors. Because those annuity options are based on the number of years of service and are discounted based on the age of the annuity recipient, the beneficiary of younger employees with few years of service receive a relatively small monthly amount.

The FRS currently provides death benefits for surviving spouses and/or eligible dependents of active members of the pension plan. Death benefits may be paid for an active member of the FRS pension plan who dies before retirement.³⁶ Certain health conditions for firefighters, law enforcement, correctional and correctional probation officers are deemed accidental and suffered in the line of duty.³⁷ If the injury or illness arises out of and in the actual performance of duty required by his or her job, the member's surviving spouse and/or eligible dependent(s) are entitled to in the line of duty death benefits.

If an active FRS member (regardless of vested status) dies in the line of duty, the surviving spouse receives a monthly benefit for his or her lifetime equal to one-half the member's monthly salary at death.³⁸ If an active FRS member in the Special Risk class is killed in the line of duty on or after July 1, 2013, the surviving spouse receives an additional monthly benefit equal to one-half of the member's monthly salary; making the monthly benefit equal to the member's entire monthly salary at death³⁹.

If the spouse dies, the benefit continues until the member's youngest child reaches 18 or is married, whichever occurs first.⁴⁰ If the child is unmarried and enrolled as a full time student, the benefit continues until he or she turns 25.⁴¹ If the deceased member is entitled to a higher normal retirement benefit based on service credit, the normal retirement benefit is payable to the joint annuitant.⁴²

³⁴ Section 121.591(2), F.S.

³⁵ Section 121.591(2)(g), F.S.

³⁶ Section 121.091(7), F.S.

³⁷ Section 112.18(1)(a), F.S., provides any condition of health caused by tuberculosis, heart disease or hypertension resulting in the total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty.

³⁸ Section 121.091(7)(d), F.S. If vested posthumously, the surviving spouse or dependent would be entitled to a death benefit.

³⁹ Section 121.091(7)(i), F.S.

⁴⁰ Section 121.091(7)(d) and (i), F.S.

⁴¹ *Id.*

⁴² Section 121.091(7)(b) and (d), F.S.

For instances relating to in the line of duty deaths, the surviving spouse or eligible dependent(s) may purchase credit for any service which could have been claimed by the member at the time of the member's death.⁴³ If a member dies within one year of vesting, the surviving spouse or other eligible dependent may use the member's annual, sick, or compensatory leave, or service eligible for purchase, to purchase enough service credit to vest the member posthumously.⁴⁴

Under most employee classes in the investment plan, no minimum death benefit is payable to a surviving spouse or children. Accumulations in the member's account are payable to the designated beneficiary.⁴⁵

When killed in the line of duty, the surviving spouse or children of an investment plan member in the Special Risk Class may opt into the FRS investment plan survivor benefits program in lieu of receiving normal retirement benefits under the FRS investment plan.⁴⁶ By participating in the survivor benefits program, the surviving spouse and children are eligible to receive annuitized benefits much like the survivor benefits afforded to Special Risk Class members of the FRS pension plan. The investment plan survivor benefits program is funded by additional employer-paid contributions to the survivor benefits account of the FRS Trust Fund.⁴⁷

Deferred Retirement Option Program

All membership classes in the FRS Pension Plan may participate in the Deferred Retirement Option Program (DROP), which allows a member to retire without terminating employment. A member who enters DROP may extend employment for an additional five years.⁴⁸ For most members, the election to participate in DROP must be made no later than twelve months after reaching normal retirement.⁴⁹ While in DROP, the member's retirement benefits accumulate and earn interest compounded monthly.⁵⁰ Upon termination of employment, the member receives the total DROP accumulations and the previously determined normal retirement benefits.⁵¹

Members in the FRS Investment Plan may not participate in DROP; investment plan members are considered retired from the FRS when the member takes a distribution from his or her account.⁵²

Employment after Retirement

Section 121.091, F.S., governs the payment of benefits under the FRS. It requires a member of the FRS to terminate employment to begin receiving benefits or begin participation in DROP to defer and accrue those benefits until termination from DROP. Termination occurs when a

⁴³ Section 121.091(7)(e), F.S.

⁴⁴ Section 121.091(7)(f), F.S.

⁴⁵ Section 121.591(3), F.S.

⁴⁶ Section 121.591(4), F.S.

⁴⁷ *Id.*

⁴⁸ Section 121.091(13)(a) and (b), F.S. Instructional personnel may extend employment for an additional eight years under certain circumstances.

⁴⁹ Section 121.091(13)(a)2., F.S.

⁵⁰ If DROP participation began prior to July 1, 2011, the effective annual interest rate was 6.5 percent. On or after July 1, 2011, the annual interest rate for DROP is 1.3 percent.

⁵¹ Section 121.091(13), F.S.

⁵² See s. 121.4501(2)(k) and (4)(f), F.S.

member ceases all employment relationships with her or his FRS employer.⁵³ Termination is void if any FRS-participating employer reemploys a member during a specified period of time.⁵⁴

Subsection 121.091(9), F.S., governs employment after retirement. It allows reemployment of FRS retirees by a non-FRS employer and authorizes those retirees to continue receiving retirement benefits.⁵⁵

Before July 1, 2010, an FRS retiree was allowed to be reemployed by an FRS employer provided certain requirements were met. A member was allowed to be reemployed by an FRS employer one calendar month after retiring or after the member's DROP termination date. If the retiree was reemployed during months two through 12 after retiring or terminating DROP, the retiree was not authorized to receive her or his pension benefit until month 13. However, a retiree was authorized to be reemployed as instructional personnel on an annual contractual basis after one calendar month without having her or his retirement benefits disrupted.⁵⁶

A member who retires on or after July 1, 2010, may not be reemployed by an FRS employer until month seven after retiring or after the member's DROP termination date. If the retiree is reemployed during months seven through 12 after retiring or terminating DROP, the retiree may not receive her or his pension benefit until month 13.⁵⁷ The reemployment exception for retirees reemployed as instructional personnel no longer applies to members who retire and are reemployed on or after July 1, 2010.

Renewed Membership

Retirees of the FRS Pension Plan or the FRS Investment Plan who were initially re-employed in covered employment by June 30, 2010, renewed their membership in the FRS (the member could choose to participate in either the pension plan or the investment plan) or other state-administered retirement system and earn service credit toward a subsequent retirement benefit. Renewed members are not eligible to participate in DROP or the Special Risk Class, and are not eligible for disability retirement. However, the surviving spouse and dependent child of a renewed member may qualify for survivor benefits.⁵⁸

Currently, retirees initially reemployed in a regularly established position on or after July 1, 2010, are not eligible for renewed membership and do not earn creditable service toward a subsequent retirement benefit.⁵⁹ This restriction from renewed membership includes retirees of the FRS Pension Plan and the FRS Investment Plan, as well as members of an optional retirement program.

⁵³ Section 121.021(39)(a), F.S.

⁵⁴ *Id.*

⁵⁵ Section 121.091(9)(a), F.S.

⁵⁶ Section 121.091(9)(b), F.S.

⁵⁷ Section 121.091(9)(c), F.S.

⁵⁸ Section 121.122(1), F.S.

⁵⁹ Section 121.122(2), F.S.

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;⁶⁰
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;⁶¹ and
- Members of a Florida College System institution may elect to enroll in the State Community College System Optional Retirement Program.⁶²

Contribution Rates

FRS employers are responsible for contributing a specified percentage of the member's monthly compensation to the Division of Retirement to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.⁶³ The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

In the annual actuarial valuation of the Florida Retirement System based on July 1, 2016, plan assets and liabilities, Milliman, Inc., the state actuary, determined the following key data relating to the FRS pension plan.⁶⁴

	Valuation Results (in \$ billions)			
	July 1, 2013	July 1, 2014	July 1, 2015	July 1, 2016
Actuarial Liability	\$153.3	\$160.1	\$165.5	\$170.4
Actuarial Value of Assets	\$131.7	\$138.6	\$143.2	\$145.5
Unfunded Actuarial Liability	\$ 21.6	\$21.5	\$22.3	\$24.9
Funded Percentage (Actuarial Value of Assets/Actuarial Liability)	85.9%	86.6%	86.5%	85.4%

The state actuary determines a rate associated with the normal cost of the pension plan (funding the prospective benefits) and a rate necessary to amortize the unfunded actuarial liabilities

⁶⁰ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

⁶¹ Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

⁶² If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

⁶³ Section 121.70(1), F.S.

⁶⁴ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at 101.

(UAL) over a thirty year period. The following are the current employer contribution rates⁶⁵ for each class and the blended rates recommended by the state actuary beginning in July 2017:⁶⁶

Membership Class	Current Rates Effective July 1, 2016		Recommended Rates to be effective July 1, 2017	
	Normal Cost	UAL Rate	Normal Cost	UAL Rate
Regular Class	2.97%	2.83%	2.89%	3.30%
Special Risk Class	11.80%	9.05%	11.81%	9.57%
Special Risk Administrative Support Class	3.87%	22.47%	3.81%	29.08%
Elected Officer's Class				
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	6.63%	33.75%	6.41%	42.69%
• Justices and Judges	11.68%	23.30%	11.66%	26.25%
• County Officers	8.55%	32.20%	8.48%	35.24%
Senior Management Service Class	4.38%	15.67%	4.28%	16.70%
Deferred Retirement Option Program	4.23%	7.10%	4.17%	7.43%

For all membership classes, except the DROP and certain members with renewed membership, employees contribute three percent of their compensation towards retirement.⁶⁷

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.⁶⁸

Retirement Plans for Municipalities and Special Districts

Chapters 175 and 185, F.S., provide funding mechanisms for municipal firefighters' and police officers' pension plans. Both chapters provide a uniform retirement system for firefighters and police officers and set standards for operating and funding of pension systems through a trust fund supported by a tax on insurance premiums. Most Florida firefighters and local law enforcement officers participate in these plans. Two types of plans are governed by each of these chapters—charter plans and local law plans. To be considered totally and permanently disabled, charter plan employees must only be found disabled from rendering useful and efficient service as a firefighter or police officer.⁶⁹ Under local law plans, the standards may vary for determining

⁶⁵ Section 121.71(4) and (5), F.S.

⁶⁶ Letter to Ms. Elizabeth Stevens, *Re: Blended Proposed Statutory Rates for the 2017-2018 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP*, dated December 2, 2016 (on file with the Senate Committee on Governmental Accountability and Oversight).

⁶⁷ Section 121.71(3), F.S.

⁶⁸ See ss. 121.4503 and 121.72(1), F.S.

⁶⁹ Sections 175.191 and 185.18, F.S.

eligibility for disability retirement, death benefits, and the benefits paid, although all plans must abide by minimum standards established under ss. 175.351 and 185.35, F.S., respectively.

Workers' Compensation under Chapter 440, F.S.

The employer must pay compensation or furnish benefits if the employee suffers an accidental compensable injury or death arising out of work performed in the course and scope of employment.⁷⁰ The injury, its occupational cause, and any resulting disability must be established to a reasonable degree of medical certainty, and the accidental compensable injury must be the major contributing cause of any resulting injuries.⁷¹

Compensation for permanent total disability is equal to two-thirds of the employee's average weekly wages payable to the employee during the continuance of the total disability.⁷²

Compensation for temporary total disability is equal to two-thirds of the employee's average weekly wages payable to the employee during the continuance of the total disability but not to exceed 104 weeks. At the earlier of the 104th week or the employee reaching maximum medical improvement, the temporary disability payment will cease and the injured employee's permanent impairment will be determined.⁷³

Where the disability or death of an employee results from an "occupational disease," it will be treated as an injury by accident.⁷⁴ The employee or his survivors will be entitled to compensation. "Occupational disease" is defined to be "only a disease for which there are epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee."⁷⁵

Presumptions and Burdens of Proof Relating to "in the line of duty" Disability and Death

Existing In the Line of Duty Presumptions for Firefighters

Section 112.18, F.S., provides a presumption applicable to any state, municipal, port authority, special tax district, or fire control district firefighter or any law enforcement officer, correctional officer, or correctional probation officer that any such employee qualifies for in the line of duty disability or death benefits if such disability or death is the result of tuberculosis, heart disease, or hypertension.

Section 175.231, F.S., provides a similar presumption for the firefighters in any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under ch. 175, F.S., whose death or disability is the result of tuberculosis, heart disease, or hypertension.

⁷⁰ Section 440.09(1), F.S.

⁷¹ *Id.*

⁷² Section 440.15(1)(a), F.S.

⁷³ Section 440.15(2)(a), F.S.

⁷⁴ Section 440.151(1)(a), F.S.

⁷⁵ Section 440.151(2), F.S.

Section 112.181, F.S., provides a presumption applicable to any emergency rescue or public safety worker, including a firefighter, that such employee qualifies for in the line of duty disability or death if such disability or death is due to hepatitis, meningococcal meningitis, or tuberculosis.

Successful passage of a pre-employment physical examination is required for these presumptions.

Burden of Proof for In the Line of Duty Benefits

Absent one of the existing presumptions, the FRS member employee has the burden of proof when claiming in the line of duty disability or death benefits. The employee must show by competent evidence that the death or disability occurred in the line of duty in order to receive the higher benefits.⁷⁶ If the employee or the employee's survivors cannot meet the burden of proof, the employee or the employee's survivors are entitled only to the lesser benefits available under regular death or disability benefits.

Under existing law, a firefighter that is disabled or dies as a result of cancer must show that the cancer was contracted due to some factor directly related to the employment as a firefighter. Due to latency periods,⁷⁷ it may be difficult for an employee to meet this burden.

Studies on the Incidence of Cancer in Firefighters

The 2015-2016 General Appropriations Act contained a \$965,000 appropriation funding a cancer study by the University of Miami-Sylvester Comprehensive Cancer Center through the Division of the State Fire Marshal. The study's goals are to provide firefighters access to cancer screenings, enable prevention and earlier detection of the disease, identify exposures that account for increased cancer risk, and develop new technology and methods to test and measure exposure in the field. A progress report⁷⁸ was submitted to the President of the Senate, Speaker of the House of Representatives, the Chief Financial Officer, and the Governor on June 15, 2016. Additionally, the 2016-2017 General Appropriations Act contained a \$1.5 million appropriation to continue the study. Another report will be submitted to the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Governor by June 15, 2017.

A National Institute for Occupation Safety and Health (NIOSH) study of cancer among U.S. firefighters has shown higher rates of certain types of cancer among firefighters than the general U.S. population.⁷⁹ These types of cancer were mostly digestive, oral, respiratory, and urinary

⁷⁶ Sections 121.091(4)(c) and (7)(d), F.S.

⁷⁷ "The time between first exposure to a cancer-causing agent and clinical recognition of the disease is called the latency period. Latency periods vary by cancer type, but usually are 15 to 20 years, or longer. Because of this, past exposures are more relevant than current exposures as potential causes of cancers occurring in workers today. Often, these exposures are hard to document." The National Institute for Occupational Safety and Health (NIOSH), *available at* <http://www.cdc.gov/niosh/topics/cancer/clusters.html> (last visited January 20, 2017).

⁷⁸ Sylvester Comprehensive Cancer Center, *Fiscal Year 2015-2016 Progress Report of Firefighters Cancer Initiative (FCI)*, dated June 15, 2016 (on file with the Committee on Governmental Oversight and Accountability).

⁷⁹ National Institute for Occupation Safety and Health (NIOSH) study summary *available at* <https://www.cdc.gov/niosh/firefighters/ffcancerstudy.html> (last visited January 20, 2017).

cancers, although there were about twice as many firefighters with malignant mesothelioma, which is a rare type of cancer caused by exposure to asbestos.⁸⁰

Special Actuarial Study of Firefighter in line of duty Cancer Presumption

On February 23, 2017, a special study⁸¹ was completed to determine the contribution rates necessary to fund the FRS benefits that may be paid based on the presumptions proposed under Senate Bill 158 as filed during the 2017 Regular Session. The results of this study determined that the contribution rate for the Special Risk Class needed to be increased by 1 basis points (0.01 percent) to fund associated costs.

III. Effect of Proposed Changes:

Firefighters' Cancer Presumption

The bill provides that any condition or impairment of the health of a firefighter employed full-time by a state or local government which is caused by multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, or testicular cancer and results in total or partial disability or death is presumed to have been accidental and to have been suffered "in the line of duty" unless the contrary is shown by competent evidence. In the line of duty retirement compensates an employee whose disability or death arises out of and in the actual performance of employment. In the line of duty retirement provides greater compensation to the firefighter or his or her dependents than would otherwise be available.

In order to be entitled to the presumption, a firefighter must have:

- Successfully passed a pre-employment physical examination that did not reveal any evidence of a health condition.
- Been employed as a firefighter with the current employer for at least 5 continuous years before becoming disabled or before the employee's death.
- Not used tobacco products for at least 5 years before becoming disabled or before the employee's death; and
- Not been employed during the preceding 5 years in any other position that is proven to create a higher risk for the named diseases.

A firefighter employed on July 1, 2017, is not required to meet the physical examination requirement in order to be entitled to the presumption.

The proposed changes result in a 0.01 percent increase in the employer contribution rate for the Special Risk class.⁸² This is included in the rate changes in section 11 of the bill.

The additional costs to other public sector retirement plans has not been determined.

⁸⁰ *Id.*

⁸¹ Milliman, *Re: Special Actuarial Study of Firefighter ILOD Cancer Presumption*, dated February 23, 2017 (on file with the Committee on Governmental Oversight and Accountability).

⁸² Milliman, *Re: Special Actuarial Study of Firefighter ILOD Cancer Presumption*, dated February 23, 2017 (on file with the Committee on Governmental Oversight and Accountability).

The fiscal impact of this legislation as it relates to workers' compensation benefits has not been determined.

Renewed Membership

Effective July 1, 2017, the bill allows for renewed membership for certain former participants of the investment plan, Senior Management Service Optional Annuity Program, State University System Optional Retirement Program (SUSORP), or State Community College System Optional Retirement Program (SCCSORP). Such renewed member will be a renewed member of the appropriate membership class in the investment plan, unless employed in a position eligible for participation in the SUSORP or the SCCSORP, in which case the retiree will become a renewed member of the SUSORP or the SCCSORP, as applicable. To be eligible for renewed membership, the member must have retired from one of the four specified plans and must be employed in a regularly established position with a covered employer on or after July 1, 2017.

Such renewed member may not qualify for disability retirement benefits and must satisfy the vesting requirements of the specific plan. The bill prohibits certain funds from being paid into the renewed member's account for any employment in a regularly established position with a covered employer from July 1, 2010, through June 30, 2017. A renewed member who is not receiving the maximum health insurance subsidy is entitled to earn additional credit toward the subsidy.

Line-of-Duty Death Benefits

Effective July 1, 2017, the bill expands the survivor benefit for members of the Special Risk Class. Specifically, it provides that such survivor benefits are retroactive to July 1, 2002.

Effective July 1, 2017, the bill also establishes a survivor benefit for all other membership classes of the investment plan for members who are killed in the line of duty since 2002, which is when members were first allowed to participate in the investment plan. The survivor benefits are the same as those currently provided for other membership classes of the pension plan, which is a monthly payment equal to one-half of the member's salary at the time of death. To receive the benefit, the spouse and children must elect to transfer the balance of the member's investment plan account to the survivor benefit account of the FRS Trust Fund. The line-of-duty death benefits supersede any other distribution that may have been provided by the member's designation of beneficiary. For a member killed in the line of duty on or after July 1, 2002, but before July 1, 2017, the initial monthly benefit payable on or after July 1, 2017, will be equal to one-half the member's salary at the time of death, except that it will be:

- Actuarially reduced by the amount of the investment plan payout, if a payout was issued; and
- After the actuarial reduction, increased by the applicable cost-of-living adjustment that would have been payable if the survivor benefit payment had begun the month following the member's death. On each July 1 after the initial payment, the benefit will be increased by the applicable cost-of-living adjustment.

Senior Management Service Optional Annuity Program

The bill closes the SMSOAP to new participants effective July 1, 2017. Currently, fewer than 20 members participate in this optional retirement program.⁸³

Default

For members initially enrolled in the FRS on or after January 1, 2018, the bill changes the default from the pension plan to the investment plan. Thus, if the member does not make a selection by the end of the five month initial election period, the member will default to the investment plan instead of the pension plan. The bill maintains the member's second election option.

Important State Interest

The bill declares that it fulfills an important state interest. It provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides in pertinent part that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds . . . unless the legislature has determined that such law fulfills an important state interest and unless:

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; or
- The expenditure is required to comply with a law that applies to all persons similarly situated.”

The bill contains a finding that the bill fulfills an important state interest (section 12). The bill appears to apply to all persons similarly situated (FRS employees and those employers employing firefighters), including state agencies, school boards, community colleges, counties, municipalities and special districts. If this exception does not apply, the bill must be approved by two-thirds vote of each chamber to be binding upon the counties and municipalities participating in the FRS.

B. Public Records/Open Meetings Issues:

None.

⁸³ Florida Retirement System Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at p. 38. Available online at: https://www.rol.frs.state.fl.us/forms/2015-16_CAFR.pdf.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Actuarial Requirements

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act” (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs that may reasonably have been expected to be paid by the current taxpayers.

Contractual Obligations

Article I, s. 10 of the State Constitution prohibits any bill of attainder, ex post facto law, or law impairing the obligation of contracts from being passed by the Florida Legislature.

The Florida Statutes provides that the rights of members of the FRS are of a contractual nature, entered into between the member and the state, and such rights are legally enforceable as valid contractual rights and may not be abridged in any way.⁸⁴ This “preservation of rights” provision⁸⁵ was established by the Florida Legislature with an effective date of July 1, 1974.

The Florida Supreme Court has held that the Florida Legislature may only alter the benefits structure of the FRS prospectively.⁸⁶ The prospective application would only alter future benefits. Those benefits previously earned or accrued by the member under

⁸⁴ Section 121.011(3)(d), F.S.

⁸⁵ The “preservation of rights” provision vests all rights and benefits already earned under the present retirement plan so the legislature may now only alter the benefits prospectively. *Florida Sheriffs Association v. Department of Administration, Division of Retirement*, 408 So. 2d 1033, 1037 (Fla. 1981).

⁸⁶ *Id.* at 1035.

the previous benefit structure remain untouched, and the member continues to enjoy that level of benefit for the period of time up until the effective date of the proposed changes. Further, once the participating member reaches retirement status, the benefits under the terms of the FRS in effect at the time of the member's retirement vest.⁸⁷

The Florida Supreme Court further held that the "preservation of rights" provision was not intended to bind future legislatures from prospectively altering benefits that accrue for future state service.⁸⁸ More recently, the Florida Supreme Court reaffirmed the previous holding, finding that the Legislature can alter the terms of the FRS, so long as the changes to the FRS are prospective.⁸⁹

This bill does not change any benefits that a member earned prior to July 1, 2017.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The line of duty cancer presumption could have a significant impact on worker's compensation because the threshold eligibility test for workers' compensation is whether the disability arose "out of and in the course of employment." If the disability did not arise "out of and in the course of employment," the employee is not eligible to receive workers' compensation benefits. There is no provision under ch. 440, F.S., for a non-duty related disability as may be found in many retirement plans.

Additional workers' compensation claims costs for firefighters contracting the cancers listed in this bill are difficult to predict. The frequency, severity, and cost estimates vary widely due to factors such as age, gender, type of treatment, and recovery period⁹⁰. The Department of Financial Services estimates average costs for 58 months of treatment (not until final resolution) at⁹¹:

- \$28,988.27 for testicular cancer;
- \$115,378.06 for non-Hodgkin's lymphoma;
- \$53,357.66 for prostate cancer; and
- Between \$126,000-\$256,000 for multiple myeloma.

⁸⁷ *Id.* at 1036.

⁸⁸ *Id.* at 1037.

⁸⁹ *Rick Scott, et al. v. George Williams, et al.*, 107 So. 3d 379 (Fla. 2013).

⁹⁰ Department of Financial Services, *Senate Bill 158 Legislative Bill Analysis*, 4 (Jan. 5, 2017)

⁹¹ *Id.*

If successful workers' compensation claims increase due to the presumption afforded by the bill, assessments paid by carriers and employers of the Special Disability Trust Fund may increase.

The Milliman actuarial and consulting firm conducted several studies at the request of the Speaker of the House of Representatives. Based on the results of the special studies, the benefit changes proposed by the bill are projected to have a total negative fiscal impact of \$10.4 million in fiscal year 2017-18. Further detail on the costs is provided in the following chart:

	Cost to Fund the New Benefits
Entities Funded by the State	
State	\$2.0 m
School Boards	\$1.3 m
State Universities	\$0.2 m
State Colleges	\$0.1 m
<i>Total</i>	\$3.7 m
Other Entities not Funded by the State	
Counties	\$6.1 m
Other	\$0.6 m
<i>Total</i>	\$6.7 m
<i>Grand Total</i>	\$10.4 m

The provisions relating to renewed membership in the FRS is expected to have an additional cost participating employer \$9.3 million annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 121.053, 121.055, 121.091, 121.122, 121.4501, 121.591, 121.5912, and 121.735.

This bill creates section 112.1816 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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



686242

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 112.1816, Florida Statutes, is created
to read:

112.1816 Firefighter disability or death from cancer
presumed contracted in the line of duty.—

(1) DEFINITION.—As used in this section, the term
“firefighter” has the same meaning as in s. 112.81.



686242

(2) PRESUMPTION; ELIGIBILITY CONDITIONS.—

(a) Any condition or impairment of the health of a firefighter employed full time by the state or any municipality, county, port authority, special tax district, or fire control district which is caused by multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, or testicular cancer and results in total or partial disability or death is presumed to have been accidental and to have been contracted in the line of duty unless the contrary is shown by competent evidence. In order to be entitled to this presumption, the firefighter:

1. Must have successfully passed a physical examination administered before the individual began service as a firefighter and which failed to reveal any evidence of such a health condition;

2. Must have been employed as a firefighter with his or her current employer for at least 5 continuous years before becoming totally or partially disabled or before his or her death;

3. Must not have used tobacco products for at least 5 years before becoming totally or partially disabled or before his or her death; and

4. Must not have been employed during the preceding 5 years in any other position that is proven to create a higher risk for multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, or testicular cancer. This includes any other employment as a firefighter at another employing agency within the preceding 5 years.

(b) An employing agency must provide a physical examination for a firefighter before he or she begins service or immediately thereafter. Notwithstanding subparagraph (a)1., if the employing



686242

agency fails to provide a physical examination before the firefighter begins service, or immediately thereafter, the firefighter is entitled to the presumption, provided that he or she meets the criteria specified in subparagraphs (a)2., (a)3., and (a)4.

(c) The presumption does not apply to benefits payable under or granted in a life insurance or disability insurance policy unless the insurer and insured have negotiated for the additional benefits to be included in the policy contract.

(3) APPLICABILITY.—A firefighter employed on July 1, 2017, is not required to meet the physical examination requirement in subsection (2) in order to be entitled to the presumption set forth in this section.

Section 2. Paragraph (a) of subsection (3) and subsection (5) of section 121.053, Florida Statutes, are amended to read:

121.053 Participation in the Elected Officers' Class for retired members.—

(3) On or after July 1, 2010:

(a) A retiree of a state-administered retirement system who is initially reemployed in ~~elected or appointed for the first time to~~ an elective office in a regularly established position with a covered employer may not reenroll in the Florida Retirement System, except as provided in s. 121.122.

(5) Any renewed member, as described in s. 121.122(1), (3), (4), or (5) ~~subsection (1) or subsection (2)~~, who is not receiving the maximum health insurance subsidy provided in s. 112.363 is entitled to earn additional credit toward the maximum health insurance subsidy. Any additional subsidy due because of such additional credit may be received only at the time of



686242

payment of the second career retirement benefit. The total health insurance subsidy received from initial and renewed membership may not exceed the maximum allowed in s. 112.363.

Section 3. Paragraph (f) of subsection (1) and paragraph (c) of subsection (6) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(f) Effective July 1, 1997:

1. Except as provided in subparagraph 3., an elected state officer eligible for membership in the Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office or within 6 months after this act becomes a law for serving elected state officers, elect to participate in the Senior Management Service Optional Annuity Program, as provided in subsection (6), in lieu of membership in the Senior Management Service Class.

2. Except as provided in subparagraph 3., an elected officer of a local agency employer eligible for membership in the Elected Officers' Class under s. 121.052(2)(d) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office, or within 6 months after this act becomes a law for serving elected officers of a local agency employer, elect to withdraw from the Florida Retirement System, as provided in subparagraph (b)2., in



686242

lieu of membership in the Senior Management Service Class.

3. A retiree of a state-administered retirement system who is initially reemployed in a regularly established position on or after July 1, 2010, through June 30, 2017, as an elected official eligible for the Elected Officers' Class may not be enrolled in renewed membership in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program as provided in subsection (6), and may not withdraw from the Florida Retirement System as a renewed member as provided in subparagraph (b)2., as applicable, in lieu of membership in the Senior Management Service Class. Effective July 1, 2017, a retiree of the Senior Management Service Optional Annuity Program who is reemployed in a regularly established position with a covered employer shall be enrolled as a renewed member as provided in s. 121.122.

(6)

(c) *Participation.*—

1. An eligible employee who is employed on or before February 1, 1987, may elect to participate in the optional annuity program in lieu of participating in the Senior Management Service Class. Such election shall ~~must~~ be made in writing and filed with the department and the personnel officer of the employer on or before May 1, 1987. An eligible employee who is employed on or before February 1, 1987, and who fails to make an election to participate in the optional annuity program by May 1, 1987, is ~~shall be~~ deemed to have elected membership in the Senior Management Service Class.

2. Except as provided in subparagraph 6., an employee who becomes eligible to participate in the optional annuity program



686242

by reason of initial employment commencing after February 1, 1987, may, within 90 days after the date of commencing employment, elect to participate in the optional annuity program. Such election shall ~~must~~ be made in writing and filed with the personnel officer of the employer. An eligible employee who does not within 90 days after commencing employment elect to participate in the optional annuity program is ~~shall be~~ deemed to have elected membership in the Senior Management Service Class.

3. A person who is appointed to a position in the Senior Management Service Class and who is a member of an existing retirement system or the Special Risk or Special Risk Administrative Support Classes of the Florida Retirement System may elect to remain in such system or class in lieu of participating in the Senior Management Service Class or optional annuity program. Such election shall ~~must~~ be made in writing and filed with the department and the personnel officer of the employer within 90 days after such appointment. An eligible employee who fails to make an election to participate in the existing system, the Special Risk Class of the Florida Retirement System, the Special Risk Administrative Support Class of the Florida Retirement System, or the optional annuity program is ~~shall be~~ deemed to have elected membership in the Senior Management Service Class.

4. Except as provided in subparagraph 5., an employee's election to participate in the optional annuity program is irrevocable if the employee continues to be employed in an eligible position and continues to meet the eligibility requirements set forth in this paragraph.



686242

156 5. Effective from July 1, 2002, through September 30, 2002,
157 an active employee in a regularly established position who has
158 elected to participate in the Senior Management Service Optional
159 Annuity Program has one opportunity to choose to move from the
160 Senior Management Service Optional Annuity Program to the
161 Florida Retirement System Pension Plan.

162 a. The election shall ~~must~~ be made in writing and ~~must be~~
163 filed with the department and the personnel officer of the
164 employer before October 1, 2002, or, in the case of an active
165 employee who is on a leave of absence on July 1, 2002, within 90
166 days after the conclusion of the leave of absence. This election
167 is irrevocable.

168 b. The employee shall receive service credit under the
169 pension plan equal to his or her years of service under the
170 Senior Management Service Optional Annuity Program. The cost for
171 such credit is the amount representing the present value of that
172 employee's accumulated benefit obligation for the affected
173 period of service.

174 c. The employee shall ~~must~~ transfer the total accumulated
175 employer contributions and earnings on deposit in his or her
176 Senior Management Service Optional Annuity Program account. If
177 the transferred amount is not sufficient to pay the amount due,
178 the employee shall ~~must~~ pay a sum representing the remainder of
179 the amount due. The employee may not retain any employer
180 contributions or earnings from the Senior Management Service
181 Optional Annuity Program account.

182 6. A retiree of a state-administered retirement system who
183 is initially reemployed on or after July 1, 2010, through June
184 30, 2017, may not renew membership in the Senior Management



686242

Service Optional Annuity Program. Effective July 1, 2017, a retiree of the Senior Management Service Optional Annuity Program who is reemployed in a regularly established position with a covered employer shall be enrolled as a renewed member as provided in s. 121.122.

7. Effective July 1, 2017, the Senior Management Service Optional Annuity Program is closed to new members. A member enrolled in the Senior Management Service Optional Annuity Program before July 1, 2017, may retain his or her membership in the annuity program.

Section 4. Paragraphs (d) and (i) of subsection (7) and paragraph (c) of subsection (9) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39) (a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(7) DEATH BENEFITS.—

(d) Notwithstanding any other provision in this chapter to the contrary, with the exception of the Deferred Retirement



686242

Option Program, as provided in subsection (13):

1. The surviving spouse of any member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime or, if the member was vested, such surviving spouse may elect to receive a benefit as provided in paragraph (b). Benefits provided by this paragraph shall supersede any other distribution that may have been provided by the member's designation of beneficiary.

2. If the surviving spouse of a member killed in the line of duty dies, the monthly payments that would have been payable to such surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Beginning July 1, 2016, such payments may be extended, for the surviving child of a member in the Special Risk Class at the time he or she was killed in the line of duty on or after July 1, 2013, until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student. Beginning July 1, 2017, such payments may be extended, for the surviving child of a member in the Special Risk Class at the time he or she was killed in the line of duty on or after July 1, 2002, until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student.

3. If a member killed in the line of duty leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and



686242

benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Beginning July 1, 2016, such monthly payments may be extended, for the surviving child of a member in the Special Risk Class at the time he or she was killed in the line of duty on or after July 1, 2013, until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student. Beginning July 1, 2017, such monthly payments may be extended, for the surviving child of a member in the Special Risk Class at the time he or she was killed in the line of duty on or after July 1, 2002, until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student.

4. The surviving spouse of a member whose benefit terminated because of remarriage shall have the benefit reinstated beginning July 1, 1993, at an amount that would have been payable had the benefit not been terminated.

(i) ~~Effective July 1, 2016, and~~ Notwithstanding any provision in this chapter to the contrary, if a member in the Special Risk Class, other than a participant in the Deferred Retirement Option Program under subsection (13), is killed in the line of duty on or after July 1, 2002 ~~2013~~, the following benefits are payable in addition to the benefits provided in paragraph (d):

1. The surviving spouse may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of the member's death for the rest of the surviving spouse's lifetime or, if the member was vested, such surviving spouse may elect to receive a benefit as provided in paragraph



686242

(b). Benefits provided by this paragraph supersede any other distribution that may have been provided by the member's designation of beneficiary.

2. If the surviving spouse dies, the monthly payments that otherwise would have been payable to such surviving spouse shall be paid for the use and benefit of the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Such monthly payments may be extended until the 25th birthday of the member's child if the child is unmarried and enrolled as a full-time student.

3. If the member leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Such monthly payments may be extended until the 25th birthday of any of the member's children if the child is unmarried and enrolled as a full-time student.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(c) Any person whose retirement is effective on or after July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates on or after July 1, 2010, who is retired under this chapter, except under the disability retirement provisions of subsection (4) or as provided in s. 121.053, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement benefits and compensation from that employer. However, a person may not be reemployed by an employer participating in the



686242

Florida Retirement System before meeting the definition of termination in s. 121.021 and may not receive both a salary from the employer and retirement benefits for 6 calendar months after meeting the definition of termination. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

1. The reemployed retiree may not renew membership in the Florida Retirement System, except as provided in s. 121.122.

2. The employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the Florida Retirement System in addition to the contributions required by s. 121.76.

3. A retiree initially reemployed in violation of this paragraph and an employer that employs or appoints such person are jointly and severally liable for reimbursement of any retirement benefits paid to the retirement trust fund from which the benefits were paid, including the Florida Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. The employer must have a written statement from the employee that he or she is not retired from a state-administered retirement system. Retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retiree's 6-month reemployment limitation period shall apply toward the repayment of benefits received in violation of this paragraph.

Section 5. Subsection (2) of section 121.122, Florida Statutes, is amended, and subsections (3), (4), and (5) are



686242

added to that section, to read:

121.122 Renewed membership in system.—

(2) Except as otherwise provided in subsections (3), (4), and (5), a retiree of a state-administered retirement system who is initially reemployed in a regularly established position on or after July 1, 2010, may not be enrolled as a renewed member.

(3) A retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed with a covered employer in a regularly established position on or after July 1, 2017, shall be enrolled as a renewed member of the investment plan unless employed in a position eligible for participation in the State University System Optional Retirement Program as provided in subsection (4) or the State Community College System Optional Retirement Program as provided in subsection (5). The renewed member must satisfy the vesting requirements and other provisions of this chapter.

(a) A renewed member of the investment plan shall be enrolled in one of the following membership classes:

1. In the Regular Class, if the position does not meet the requirements for membership under s. 121.0515, s. 121.053, or s. 121.055.

2. In the Special Risk Class, if the position meets the requirements of s. 121.0515.

3. In the Elected Officers' Class, if the position meets the requirements of s. 121.053.

4. In the Senior Management Service Class, if the position meets the requirements of s. 121.055.



686242

(b) Creditable service, including credit toward the retiree health insurance subsidy provided in s. 112.363, does not accrue for a renewed member's employment in a regularly established position with a covered employer from July 1, 2010, through June 30, 2017.

(c) Employer and employee contributions, interest, earnings, or any other funds may not be paid into a renewed member's investment plan account for any employment in a regularly established position with a covered employer on or after July 1, 2010, through June 30, 2017, by the renewed member or the employer on behalf of the renewed member.

(d) To be eligible to receive a retirement benefit, the renewed member must satisfy the vesting requirements in s. 121.4501(6).

(e) The renewed member is ineligible to receive disability benefits as provided in s. 121.091(4) or s. 121.591(2).

(f) The renewed member is subject to the limitations on reemployment after retirement provided in s. 121.091(9), as applicable.

(g) The renewed member must satisfy the requirements for termination from employment provided in s. 121.021(39).

(h) Upon renewed membership or reemployment of a retiree, the employer and the renewed member shall pay the applicable employer and employee contributions required under ss. 112.363, 121.71, 121.74, and 121.76. The contributions are payable only for employment and salary earned in a regularly established position with a covered employer on or after July 1, 2017. The employer and employee contributions shall be transferred to the investment plan and placed in a default fund as designated by



686242

the state board. The renewed member may move the contributions once an account is activated in the investment plan.

(i) A renewed member who earns creditable service under the investment plan and who is not receiving the maximum health insurance subsidy provided in s. 112.363 is entitled to earn additional credit toward the subsidy. Such credit may be earned only for employment in a regularly established position with a covered employer on or after July 1, 2017. Any additional subsidy due because of additional credit may be received only at the time of paying the second career retirement benefit. The total health insurance subsidy received by a retiree receiving benefits from initial and renewed membership may not exceed the maximum allowed under s. 112.363.

(j) Notwithstanding s. 121.4501(4)(f), the renewed member is not eligible to elect membership in the pension plan.

(4) A retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed on or after July 1, 2017, in a regularly established position eligible for participation in the State University System Optional Retirement Program shall become a renewed member of the optional retirement program. The renewed member must satisfy the vesting requirements and other provisions of this chapter. Once enrolled, a renewed member remains enrolled in the optional retirement program while employed in an eligible position for the optional retirement program. If employment in a different covered position results in the renewed member's enrollment in the investment plan, the renewed member is no longer eligible to



686242

participate in the optional retirement program unless employed in a mandatory position under s. 121.35.

(a) The renewed member is subject to the limitations on reemployment after retirement provided in s. 121.091(9), as applicable.

(b) The renewed member must satisfy the requirements for termination from employment provided in s. 121.021(39).

(c) Upon renewed membership or reemployment of a retiree, the employer and the renewed member shall pay the applicable employer and employee contributions required under s. 121.35.

(d) Employer and employee contributions, interest, earnings, or any other funds may not be paid into a renewed member's optional retirement program account for any employment in a regularly established position with a covered employer on or after July 1, 2010, through June 30, 2017, by the renewed member or the employer on behalf of the renewed member.

(e) Notwithstanding s. 121.4501(4)(f), the renewed member is not eligible to elect membership in the pension plan.

(5) A retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed on or after July 1, 2017, in a regularly established position eligible for participation in the State Community College System Optional Retirement Program shall become a renewed member of the optional retirement program. The renewed member must satisfy the eligibility requirements of this chapter and s. 1012.875 for the optional retirement program. Once enrolled, a renewed member remains enrolled in the optional retirement program while



686242

employed in an eligible position for the optional retirement program. If employment in a different covered position results in the renewed member's enrollment in the investment plan, the renewed member is no longer eligible to participate in the optional retirement program.

(a) The renewed member is subject to the limitations on reemployment after retirement provided in s. 121.091(9), as applicable.

(b) The renewed member must satisfy the requirements for termination from employment provided in s. 121.021(39).

(c) Upon renewed membership or reemployment of a retiree, the employer and the renewed member shall pay the applicable employer and employee contributions required under ss. 121.051(2)(c) and 1012.875.

(d) Employer and employee contributions, interest, earnings, or any other funds may not be paid into a renewed member's optional retirement program account for any employment in a regularly established position with a covered employer on or after July 1, 2010, through June 30, 2017, by the renewed member or the employer on behalf of the renewed member.

(e) Notwithstanding s. 121.4501(4)(f), the renewed member is not eligible to elect membership in the pension plan.

Section 6. Paragraphs (e) and (i) of subsection (2), paragraph (b) of subsection (3), subsection (4), paragraph (c) of subsection (5), and paragraphs (a) and (h) of subsection (10) of section 121.4501, Florida Statutes, are amended to read:

121.4501 Florida Retirement System Investment Plan.—

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

(e) "Eligible employee" means an officer or employee, as



686242

defined in s. 121.021, who:

1. Is a member of, or is eligible for membership in, the Florida Retirement System, including any renewed member of the Florida Retirement System initially enrolled before July 1, 2010; ~~or~~

2. Participates in, or is eligible to participate in, the Senior Management Service Optional Annuity Program as established under s. 121.055(6), the State Community College System Optional Retirement Program as established under s. 121.051(2)(c), or the State University System Optional Retirement Program established under s. 121.35; or

3. Is a retired member of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed in a regularly established position on or after July 1, 2017, and enrolled as a renewed member as provided in s. 121.122.

The term does not include any member participating in the Deferred Retirement Option Program established under s. 121.091(13), a retiree of the pension plan who is reemployed in a regularly established position on or after July 1, 2010, a retiree of a state-administered retirement system initially reemployed in a regularly established position on or after July 1, 2010, through June 30, 2017, or a mandatory participant of the State University System Optional Retirement Program established under s. 121.35.

(i) "Member" or "employee" means an eligible employee who



686242

enrolls in, or who defaults into, the investment plan as provided in subsection (4), a terminated Deferred Retirement Option Program member as described in subsection (21), or a beneficiary or alternate payee of a member or employee.

(3) RETIREMENT SERVICE CREDIT; TRANSFER OF BENEFITS.—

(b) Notwithstanding paragraph (a), an eligible employee who elects to participate in, or who defaults into, the investment plan and establishes one or more individual member accounts may elect to transfer to the investment plan a sum representing the present value of the employee's accumulated benefit obligation under the pension plan, except as provided in paragraph (4) (b). Upon transfer, all service credit earned under the pension plan is nullified for purposes of entitlement to a future benefit under the pension plan. A member may not transfer the accumulated benefit obligation balance from the pension plan after the time period for enrolling in the investment plan has expired.

1. For purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated creditable service and estimated average final compensation under the pension plan, subject to recomputation under subparagraph 2. For state employees, initial estimates shall be based upon creditable service and average final compensation as of midnight on June 30, 2002; for district school board employees, initial estimates shall be based upon creditable service and average final compensation as of midnight on September 30, 2002; and for local government employees, initial estimates shall be based upon creditable service and average final compensation as of midnight on December 31, 2002.



686242

The dates specified are the "estimate date" for these employees.
The actuarial present value of the employee's accumulated
benefit obligation shall be based on the following:

a. The discount rate and other relevant actuarial
assumptions used to value the Florida Retirement System Trust
Fund at the time the amount to be transferred is determined,
consistent with the factors provided in sub-subparagraphs b. and
c.

b. A benefit commencement age, based on the member's
estimated creditable service as of the estimate date.

c. Except as provided under sub-subparagraph d., for a
member initially enrolled:

(I) Before July 1, 2011, the benefit commencement age is
the younger of the following, but may not be younger than the
member's age as of the estimate date:

(A) Age 62; or

(B) The age the member would attain if the member completed
30 years of service with an employer, assuming the member worked
continuously from the estimate date, and disregarding any
vesting requirement that would otherwise apply under the pension
plan.

(II) On or after July 1, 2011, the benefit commencement age
is the younger of the following, but may not be younger than the
member's age as of the estimate date:

(A) Age 65; or

(B) The age the member would attain if the member completed
33 years of service with an employer, assuming the member worked
continuously from the estimate date, and disregarding any
vesting requirement that would otherwise apply under the pension



686242

plan.

d. For members of the Special Risk Class and for members of the Special Risk Administrative Support Class entitled to retain the special risk normal retirement date:

(I) Initially enrolled before July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 55; or

(B) The age the member would attain if the member completed 25 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the pension plan.

(II) Initially enrolled on or after July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 60; or

(B) The age the member would attain if the member completed 30 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the pension plan.

e. The calculation must disregard vesting requirements and early retirement reduction factors that would otherwise apply under the pension plan.

2. For each member who elects to transfer moneys from the pension plan to his or her account in the investment plan, the division shall recompute the amount transferred under



686242

subparagraph 1. within 60 days after the actual transfer of funds based upon the member's actual creditable service and actual final average compensation as of the initial date of participation in the investment plan. If the recomputed amount differs from the amount transferred by \$10 or more, the division shall:

a. Transfer, or cause to be transferred, from the Florida Retirement System Trust Fund to the member's account the excess, if any, of the recomputed amount over the previously transferred amount together with interest from the initial date of transfer to the date of transfer under this subparagraph, based upon the effective annual interest equal to the assumed return on the actuarial investment which was used in the most recent actuarial valuation of the system, compounded annually.

b. Transfer, or cause to be transferred, from the member's account to the Florida Retirement System Trust Fund the excess, if any, of the previously transferred amount over the recomputed amount, together with interest from the initial date of transfer to the date of transfer under this subparagraph, based upon 6 percent effective annual interest, compounded annually, pro rata based on the member's allocation plan.

3. If contribution adjustments are made as a result of employer errors or corrections, including plan corrections, following recomputation of the amount transferred under subparagraph 1., the member is entitled to the additional contributions or is responsible for returning any excess contributions resulting from the correction. However, a ~~any~~ return of such erroneous excess pretax contribution by the plan must be made within the period allowed by the Internal Revenue



686242

Service. The present value of the member's accumulated benefit obligation may ~~shall~~ not be recalculated.

4. As directed by the member, the state board shall transfer or cause to be transferred the appropriate amounts to the designated accounts within 30 days after the effective date of the member's participation in the investment plan unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that causes the suspension of trading on a ~~any~~ national securities exchange in the country where the securities were issued. In that event, the 30-day period may be extended by a resolution of the state board. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash, as determined by the state board. Such securities are valued as of the date of receipt in the member's account.

5. If the state board or the division receives notification from the United States Internal Revenue Service that this paragraph or any portion of this paragraph will cause the retirement system, or a portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply. Upon such notice, the state board and the division shall notify the presiding officers of the Legislature.

(4) PARTICIPATION; ENROLLMENT.—

(a)1. Effective June 1, 2002, through February 28, 2003, a 90-day election period was provided to each eligible employee participating in the Florida Retirement System, preceded by a 90-day education period, permitting each eligible employee to elect membership in the investment plan. An employee who failed



686242

to elect the investment plan during the election period remained in the pension plan. An eligible employee who was employed in a regularly established position during the election period was granted the option to make one subsequent election, as provided in paragraph (f). With respect to an eligible employee who did not participate in the initial election period or who is initially employed in a regularly established position after the close of the initial election period but before January 1, 2018, on June 1, 2002, by a state employer:

~~a. Any such employee may elect to participate in the investment plan in lieu of retaining his or her membership in the pension plan. The election must be made in writing or by electronic means and must be filed with the third party administrator by August 31, 2002, or, in the case of an active employee who is on a leave of absence on April 1, 2002, by the last business day of the 5th month following the month the leave of absence concludes. This election is irrevocable, except as provided in paragraph (g). Upon making such election, the employee shall be enrolled as a member of the investment plan, the employee's membership in the Florida Retirement System is governed by the provisions of this part, and the employee's membership in the pension plan terminates. The employee's enrollment in the investment plan is effective the first day of the month for which a full month's employer contribution is made to the investment plan.~~

~~b. Any such employee who fails to elect to participate in the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment~~



686242

~~plan is forfeited.~~

~~2. With respect to employees who become eligible to participate in the investment plan by reason of employment in a regularly established position with a state employer commencing after April 1, 2002:~~

~~a. Any~~ such employee shall, by default, be enrolled in the pension plan at the commencement of employment, and may, by the last business day of the 5th month following the employee's month of hire, elect to participate in the investment plan. The employee's election must be made in writing or by electronic means and must be filed with the third-party administrator. The election to participate in the investment plan is irrevocable, except as provided in paragraph (f) ~~(g)~~.

~~a.b.~~ If the employee files such election within the prescribed time period, enrollment in the investment plan is effective on the first day of employment. The retirement contributions paid through the month of the employee plan change shall be transferred to the investment program, and, effective the first day of the next month, the employer and employee must pay the applicable contributions based on the employee membership class in the program.

~~b.e.~~ An employee who fails to elect to participate in the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment plan is forfeited.

~~2.3.~~ With respect to employees who become eligible to participate in the investment plan pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to



686242

participate in the investment plan in lieu of retaining his or her membership in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program. The election must be made in writing or by electronic means and must be filed with the third-party administrator. This election is irrevocable, except as provided in paragraph (f) ~~(g)~~. Upon making such election, the employee shall be enrolled as a member in the investment plan, the employee's membership in the Florida Retirement System is governed by the provisions of this part, and the employee's participation in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program terminates. The employee's enrollment in the investment plan is effective on the first day of the month for which a full month's employer and employee contribution is made to the investment plan.

(b)1. With respect to employees who become eligible to participate in the investment plan by reason of employment in a regularly established position commencing on or after January 1, 2018, or who did not complete an election window before January 1, 2018, any such employee shall be enrolled in the pension plan at the commencement of employment and may, by the last business day of the eighth month following the employee's month of hire, elect to participate in the pension plan or the investment plan. Eligible employees may make a plan election only if they are earning service credit in an employer-employee relationship consistent with s. 121.021(17)(b), excluding leaves of absence without pay.

2. The employee's election must be made in writing or by



686242

electronic means and must be filed with the third-party administrator. The election to participate in the pension plan or investment plan is irrevocable, except as provided in paragraph (f).

3.a. Except as provided in sub-subparagraph b., if the employee fails to make an election to either the pension plan or the investment plan during the 8-month period following the month of hire, the employee is deemed to have elected the investment plan and shall default into the investment plan retroactively to the employee's date of employment. The employee's option to participate in the pension plan is forfeited, except as provided in paragraph (f).

b. If the employee is employed in a position included in the Special Risk Class and fails to make an election to either the pension plan or the investment plan during the 8-month period following the month of hire, the employee is deemed to have elected the pension plan and shall default into the pension plan retroactively to the employee's date of employment. The employee's option to participate in the investment plan is forfeited, except as provided in paragraph (f).

4. The amount of the employee and employer contributions paid through the date of default to the investment plan shall be transferred to the investment plan and shall be placed in a default fund as designated by the State Board of Administration. The employee may move the contributions once an account is activated in the investment plan.

5. Effective the first day of the month after an eligible employee makes a plan election of the pension plan or the investment plan, or the first day of the month after default to



686242

the investment plan, the employee and employer shall pay the applicable contributions based on the employee membership class in the program.

~~4. For purposes of this paragraph, "state employer" means any agency, board, branch, commission, community college, department, institution, institution of higher education, or water management district of the state, which participates in the Florida Retirement System for the benefit of certain employees.~~

~~(b)1. With respect to an eligible employee who is employed in a regularly established position on September 1, 2002, by a district school board employer:~~

~~a. Any such employee may elect to participate in the investment plan in lieu of retaining his or her membership in the pension plan. The election must be made in writing or by electronic means and must be filed with the third party administrator by November 30, or, in the case of an active employee who is on a leave of absence on July 1, 2002, by the last business day of the 5th month following the month the leave of absence concludes. This election is irrevocable, except as provided in paragraph (g). Upon making such election, the employee shall be enrolled as a member of the investment plan, the employee's membership in the Florida Retirement System is governed by the provisions of this part, and the employee's membership in the pension plan terminates. The employee's enrollment in the investment plan is effective the first day of the month for which a full month's employer contribution is made to the investment program.~~

~~b. Any such employee who fails to elect to participate in~~



686242

~~the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment plan is forfeited.~~

~~2. With respect to employees who become eligible to participate in the investment plan by reason of employment in a regularly established position with a district school board employer commencing after July 1, 2002:~~

~~a. Any such employee shall, by default, be enrolled in the pension plan at the commencement of employment, and may, by the last business day of the 5th month following the employee's month of hire, elect to participate in the investment plan. The employee's election must be made in writing or by electronic means and must be filed with the third-party administrator. The election to participate in the investment plan is irrevocable, except as provided in paragraph (g).~~

~~b. If the employee files such election within the prescribed time period, enrollment in the investment plan is effective on the first day of employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the investment plan, and, effective the first day of the next month, the employer shall pay the applicable contributions based on the employee membership class in the investment plan.~~

~~e. Any such employee who fails to elect to participate in the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment plan is forfeited.~~



686242

~~3. For purposes of this paragraph, "district school board employer" means any district school board that participates in the Florida Retirement System for the benefit of certain employees, or a charter school or charter technical career center that participates in the Florida Retirement System as provided in s. 121.051(2) (d).~~

~~(c)1. With respect to an eligible employee who is employed in a regularly established position on December 1, 2002, by a local employer:~~

~~a. Any such employee may elect to participate in the investment plan in lieu of retaining his or her membership in the pension plan. The election must be made in writing or by electronic means and must be filed with the third party administrator by February 28, 2003, or, in the case of an active employee who is on a leave of absence on October 1, 2002, by the last business day of the 5th month following the month the leave of absence concludes. This election is irrevocable, except as provided in paragraph (g). Upon making such election, the employee shall be enrolled as a participant of the investment plan, the employee's membership in the Florida Retirement System is governed by the provisions of this part, and the employee's membership in the pension plan terminates. The employee's enrollment in the investment plan is effective the first day of the month for which a full month's employer contribution is made to the investment plan.~~

~~b. Any such employee who fails to elect to participate in the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment~~



686242

~~plan is forfeited.~~

~~2. With respect to employees who become eligible to participate in the investment plan by reason of employment in a regularly established position with a local employer commencing after October 1, 2002:~~

~~a. Any such employee shall, by default, be enrolled in the pension plan at the commencement of employment, and may, by the last business day of the 5th month following the employee's month of hire, elect to participate in the investment plan. The employee's election must be made in writing or by electronic means and must be filed with the third-party administrator. The election to participate in the investment plan is irrevocable, except as provided in paragraph (g).~~

~~b. If the employee files such election within the prescribed time period, enrollment in the investment plan is effective on the first day of employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the investment plan, and, effective the first day of the next month, the employer shall pay the applicable contributions based on the employee membership class in the investment plan.~~

~~c. Any such employee who fails to elect to participate in the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment plan is forfeited.~~

~~3. For purposes of this paragraph, "local employer" means any employer not included in paragraph (a) or paragraph (b).~~

~~(c)(d)~~ Contributions available for self-direction by a



686242

member who has not selected one or more specific investment products shall be allocated as prescribed by the state board. The third-party administrator shall notify the member at least quarterly that the member should take an affirmative action to make an asset allocation among the investment products.

(d)~~(e)~~ On or after July 1, 2011, a member of the pension plan who obtains a refund of employee contributions retains his or her prior plan choice upon return to employment in a regularly established position with a participating employer.

(e)1.~~(f)~~ A member of the investment plan who takes a distribution of any contributions from his or her investment plan account is considered a retiree. A retiree who is initially reemployed in a regularly established position on or after July 1, 2010, through June 30, 2017, is not eligible for to be ~~enrolled in~~ renewed membership, except as provided in s. 121.122.

2. A retiree who is reemployed on or after July 1, 2017, shall be enrolled as a renewed member as provided in s. 121.122.

(f)~~(g)~~ After the period during which an eligible employee had the choice to elect the pension plan or the investment plan, or the month following the receipt of the eligible employee's plan election, if sooner, the employee shall have one opportunity, at the employee's discretion, to choose to move from the pension plan to the investment plan or from the investment plan to the pension plan. Eligible employees may elect to move between plans only if they are earning service credit in an employer-employee relationship consistent with s. 121.021(17)(b), excluding leaves of absence without pay. Effective July 1, 2005, such elections are effective on the



686242

first day of the month following the receipt of the election by the third-party administrator and are not subject to the requirements regarding an employer-employee relationship or receipt of contributions for the eligible employee in the effective month, except when the election is received by the third-party administrator. This paragraph is contingent upon approval by the Internal Revenue Service.

1. If the employee chooses to move to the investment plan, the provisions of subsection (3) govern the transfer.

2. If the employee chooses to move to the pension plan, the employee must transfer from his or her investment plan account, and from other employee moneys as necessary, a sum representing the present value of that employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan and service in the investment plan. Benefit commencement occurs on the first date the employee is eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the pension plan liabilities in the most recent actuarial valuation. For any employee who, at the time of the second election, already maintains an accrued benefit amount in the pension plan, the then-present value of the accrued benefit is deemed part of the required transfer amount. The division must ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary. A refund of any employee contributions or additional member payments made which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the



686242

investment plan is not permitted.

3. Notwithstanding subparagraph 2., an employee who chooses to move to the pension plan and who became eligible to participate in the investment plan by reason of employment in a regularly established position with a state employer after June 1, 2002; a district school board employer after September 1, 2002; or a local employer after December 1, 2002, must transfer from his or her investment plan account, and from other employee moneys as necessary, a sum representing the employee's actuarial accrued liability. A refund of any employee contributions or additional member ~~participant~~ payments made which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the investment plan is not permitted.

4. An employee's ability to transfer from the pension plan to the investment plan pursuant to paragraphs (a) and (b) ~~(a) - (d)~~, and the ability of a current employee to have an option to later transfer back into the pension plan under subparagraph 2., shall be deemed a significant system amendment. Pursuant to s. 121.031(4), any resulting unfunded liability arising from actual original transfers from the pension plan to the investment plan must be amortized within 30 plan years as a separate unfunded actuarial base independent of the reserve stabilization mechanism defined in s. 121.031(3)(f). For the first 25 years, a direct amortization payment may not be calculated for this base. During this 25-year period, the separate base shall be used to offset the impact of employees exercising their second program election under this paragraph. The actuarial funded status of the pension plan will not be affected by such second program



686242

elections in any significant manner, after due recognition of the separate unfunded actuarial base. Following the initial 25-year period, any remaining balance of the original separate base shall be amortized over the remaining 5 years of the required 30-year amortization period.

5. If the employee chooses to transfer from the investment plan to the pension plan and retains an excess account balance in the investment plan after satisfying the buy-in requirements under this paragraph, the excess may not be distributed until the member retires from the pension plan. The excess account balance may be rolled over to the pension plan and used to purchase service credit or upgrade creditable service in the pension plan.

(5) CONTRIBUTIONS.—

(c) The state board, acting as plan fiduciary, must ensure that all plan assets are held in a trust, pursuant to s. 401 of the Internal Revenue Code. The fiduciary must ensure that such contributions are allocated as follows:

1. The employer and employee contribution portion earmarked for member accounts shall be used to purchase interests in the appropriate investment vehicles as specified by the member, or in accordance with paragraph (4)(c) ~~(4)(d)~~.

2. The employer contribution portion earmarked for administrative and educational expenses shall be transferred to the state board's Administrative Trust Fund.

3. The employer contribution portion earmarked for disability benefits and line-of-duty death benefits shall be transferred to the Florida Retirement System Trust Fund.

(10) EDUCATION COMPONENT.—



686242

(a) The state board, in coordination with the department, shall provide for an education component for eligible employees ~~system members~~ in a manner consistent with ~~the provisions of~~ this subsection ~~section~~. ~~The education component must be available to eligible employees at least 90 days prior to the beginning date of the election period for the employees of the respective types of employers.~~

~~(h) Pursuant to subsection (8), all Florida Retirement System employers have an obligation to regularly communicate the existence of the two Florida Retirement System plans and the plan choice in the natural course of administering their personnel functions, using the educational materials supplied by the state board and the Department of Management Services.~~

Section 7. Subsection (4) of section 121.591, Florida Statutes, is amended to read:

121.591 Payment of benefits.—Benefits may not be paid under the Florida Retirement System Investment Plan unless the member has terminated employment as provided in s. 121.021(39)(a) or is deceased and a proper application has been filed as prescribed by the state board or the department. Benefits, including employee contributions, are not payable under the investment plan for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence, or any other reason except a requested distribution for retirement, a mandatory de minimis distribution authorized by the administrator, or a required minimum distribution provided pursuant to the Internal Revenue Code. The state board or department, as appropriate, may cancel



686242

1026 an application for retirement benefits if the member or
1027 beneficiary fails to timely provide the information and
1028 documents required by this chapter and the rules of the state
1029 board and department. In accordance with their respective
1030 responsibilities, the state board and the department shall adopt
1031 rules establishing procedures for application for retirement
1032 benefits and for the cancellation of such application if the
1033 required information or documents are not received. The state
1034 board and the department, as appropriate, are authorized to cash
1035 out a de minimis account of a member who has been terminated
1036 from Florida Retirement System covered employment for a minimum
1037 of 6 calendar months. A de minimis account is an account
1038 containing employer and employee contributions and accumulated
1039 earnings of not more than \$5,000 made under the provisions of
1040 this chapter. Such cash-out must be a complete lump-sum
1041 liquidation of the account balance, subject to the provisions of
1042 the Internal Revenue Code, or a lump-sum direct rollover
1043 distribution paid directly to the custodian of an eligible
1044 retirement plan, as defined by the Internal Revenue Code, on
1045 behalf of the member. Any nonvested accumulations and associated
1046 service credit, including amounts transferred to the suspense
1047 account of the Florida Retirement System Investment Plan Trust
1048 Fund authorized under s. 121.4501(6), shall be forfeited upon
1049 payment of any vested benefit to a member or beneficiary, except
1050 for de minimis distributions or minimum required distributions
1051 as provided under this section. If any financial instrument
1052 issued for the payment of retirement benefits under this section
1053 is not presented for payment within 180 days after the last day
1054 of the month in which it was originally issued, the third-party



686242

administrator or other duly authorized agent of the state board shall cancel the instrument and credit the amount of the instrument to the suspense account of the Florida Retirement System Investment Plan Trust Fund authorized under s. 121.4501(6). Any amounts transferred to the suspense account are payable upon a proper application, not to include earnings thereon, as provided in this section, within 10 years after the last day of the month in which the instrument was originally issued, after which time such amounts and any earnings attributable to employer contributions shall be forfeited. Any forfeited amounts are assets of the trust fund and are not subject to chapter 717.

(4) LINE-OF-DUTY DEATH BENEFITS FOR INVESTMENT PLAN ~~SPECIAL RISK-CLASS MEMBERS~~.—Benefits are provided under this subsection to the spouse and child or children of members in the investment plan ~~Special Risk-Class~~ when such members are killed in the line of duty and are payable in lieu of the benefits that would otherwise be payable under subsection (1) or subsection (3). Benefits provided by this subsection supersede any other distribution that may have been provided by the member's designation of beneficiary. Such benefits must be funded from employer contributions made under s. 121.571, transferred employee contributions and funds accumulated pursuant to paragraph (a), and interest and earnings thereon.

(a) *Transfer of funds*.—To qualify to receive monthly benefits under this subsection:

1. All moneys accumulated in the member's account, including vested and nonvested accumulations as described in s. 121.4501(6), must be transferred from such individual accounts



686242

to the division for deposit in the survivor benefit account of the Florida Retirement System Trust Fund. Moneys in the survivor benefit account must be accounted for separately. Earnings must be credited on an annual basis for amounts held in the survivor benefit account of the Florida Retirement System Trust Fund based on actual earnings of the trust fund.

2. If the member has retained retirement credit earned under the pension plan as provided in s. 121.4501(3), a sum representing the actuarial present value of such credit within the Florida Retirement System Trust Fund shall be transferred by the division from the pension plan to the survivor benefit retirement program as implemented under this subsection and shall be deposited in the survivor benefit account of the trust fund.

(b) *Survivor retirement; entitlement.*—An investment plan member who is ~~in the Special Risk Class at the time the member is~~ killed in the line of duty on or after July 1, 2002 ~~2013~~, regardless of length of creditable service, may have survivor benefits paid as provided in s. 121.091(7)(d) and (i) to:

1. The surviving spouse for the spouse's lifetime; or

2. If there is no surviving spouse or the surviving spouse dies, the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Such payments may be extended until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student as provided in s. 121.091(7)(d) and (i).

(c) *Survivor benefit retirement effective date.*—

1. The effective retirement date for the surviving spouse or eligible child of a Special Risk Class member who is killed



686242

in the line of duty is:

a.1. The first day of the month following the member's death if the member dies on or after July 1, 2016.

b.2. July 1, 2016, for a member of the Special Risk Class when killed in the line of duty on or after July 1, 2013, but before July 1, 2016, if the application is received before July 1, 2016; or the first day of the month following the receipt of such application.

2. Except as provided in subparagraph 1., the effective retirement date for the surviving spouse or eligible child of an investment plan member who is killed in the line of duty is:

a. The first day of the month following the member's death if the member dies on or after July 1, 2017.

b. July 1, 2017, if the member is killed in the line of duty on or after July 1, 2002, but before July 1, 2017, if the application is received before July 1, 2017; or the first day of the month following the receipt of such application.

If the investment plan account balance has already been paid out to the surviving spouse or the eligible unmarried dependent child or children, the benefit payable shall be actuarially reduced by the amount of the payout.

(d) *Line-of-duty death benefit.*—

1. The following individuals are eligible to receive a retirement benefit under s. 121.091(7)(d) and (i) if the member's account balance is surrendered and an application is received and approved:

a. The surviving spouse.

b. If there is no surviving spouse or the surviving spouse



686242

dies, the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child, or until the 25th birthday of the member's child if the child is unmarried and enrolled as a full-time student.

2. Such surviving spouse or such child or children shall receive a monthly survivor benefit that begins accruing on the first day of the month of survivor benefit retirement, as approved by the division, and is payable on the last day of that month and each month thereafter during the surviving spouse's lifetime or on behalf of the unmarried children of the member until the 18th birthday of the youngest child, or until the 25th birthday of any of the member's unmarried children who are enrolled as full-time students. Survivor benefits must be paid out of the survivor benefit account of the Florida Retirement System Trust Fund established under this subsection.

If the investment plan account balance has already been paid out to the surviving spouse or the eligible unmarried dependent child or children, the benefit payable shall be actuarially reduced by the amount of the payout.

(e) *Computation of survivor benefit retirement benefit.*—The amount of each monthly payment must be calculated as provided under s. 121.091(7)(d) and (i).

(f) *Death of the surviving spouse or children.*—

1. Upon the death of a surviving spouse, the monthly benefits shall be paid through the last day of the month of death and shall terminate or be paid on behalf of the unmarried child or children until the 18th birthday of the youngest child, or the 25th birthday of any of the member's unmarried children



686242

who are enrolled as full-time students.

2. If the surviving spouse dies and the benefits are being paid on behalf of the member's unmarried children as provided in subparagraph 1., benefits shall be paid through the last day of the month until the later of the month the youngest child reaches his or her 18th birthday, the month of the 25th birthday of any of the member's unmarried children enrolled as full-time students, or the month of the death of the youngest child.

Section 8. Section 121.5912, Florida Statutes, is amended to read:

121.5912 Survivor benefit retirement program; qualified status; rulemaking authority.—It is the intent of the Legislature that the survivor benefit retirement program for ~~Special Risk Class~~ members of the Florida Retirement System Investment Plan meet all applicable requirements for a qualified plan. If the state board or the division receives notification from the Internal Revenue Service that this program or any portion of this program will cause the retirement system, or any portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply. Upon such notice, the state board or the division shall notify the presiding officers of the Legislature. The state board and the department may adopt any rules necessary to maintain the qualified status of the survivor benefit retirement program.

Section 9. Subsections (1) and (3) of section 121.735, Florida Statutes, are amended to read:

121.735 Allocations for member line-of-duty death benefits; percentage amounts.—



686242

(1) The allocations established in subsection (3) shall be used to provide line-of-duty death benefit coverage for ~~Special Risk Class~~ members in the investment plan and shall be transferred monthly by the division from the Florida Retirement System Contributions Clearing Trust Fund to the survivor benefit account of the Florida Retirement System Trust Fund.

(3) Effective July 1, 2017 ~~2016~~, allocations from the Florida Retirement System Contributions Clearing Trust Fund to provide line-of-duty death benefits for ~~Special Risk Class~~ members in the investment plan and to offset the costs of administering said coverage, are as follows:

Membership Class	Percentage of Gross Compensation
<u>Regular Class</u>	<u>0.05%</u>
Special Risk Class	<u>1.15%</u> ~~0.82%~~
<u>Special Risk Administrative Support Class</u>	<u>0.03%</u>
<u>Elected Officers' Class—</u> <u>Legislators, Governor,</u> <u>Lt. Governor, Cabinet</u> <u>Officers,</u> <u>State Attorneys, Public</u>	<u>0.15%</u>



686242

Defenders

Elected Officers' Class—

Justices, Judges 0.09%

Elected Officers' Class—

County Elected Officers 0.20%

Senior Management Service
Class

0.05%

Section 10. The Legislature shall review the current status of research programs, funded wholly or in part by the General Appropriations Act, which study the incidence of cancer in firefighters. This review must be conducted before the convening of the 2018 Regular Session of the Legislature to determine whether any further statutory changes are necessary as a result of the enactment of s. 112.1816, Florida Statutes, by this act.

Section 11. (1) In order to fund the benefit changes provided in this act, the required employer contribution rate for members of the Florida Retirement System established in s. 121.71(4), Florida Statutes, are adjusted as follows:

(a) The Regular Class is increased by 0.01 percentage point.

(b) The Special Risk Class is increased by 0.06 percentage point.

(c) The Special Risk Administrative Support Class is increased by 0.02 percentage point.



686242

(d) The Elected Officers' Class—Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, and Public Defenders is increased by 0.04 percentage point.

(e) The Elected Officers' Class—Justices, Judges is increased by 0.01 percentage point.

(f) The Elected Officers' Class—County Elected Officers is increased by 0.06 percentage point.

(g) The Senior Management Service Class is increased by 0.01 percentage point.

(2) In order to fund the benefit changes provided in this act, the required employer contribution rate for the unfunded actuarial liability of the Florida Retirement System established in s. 121.71(5), Florida Statutes, for the Special Risk Class is increased by 0.12 percentage point.

(3) The adjustments provided in subsections (1) and (2) are in addition to any other changes to such contribution rates which may be enacted into law to take effect on July 1, 2017. The Division of Law Revision and Information is directed to adjust accordingly the contribution rates provided in s. 121.71, Florida Statutes.

Section 12. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems. These persons must be provided benefits that are fair and adequate and that are managed, administered, and funded in an actuarially sound manner, as required by s. 14, Article X of the State Constitution and part VII of chapter 112,



686242

Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 13. Subsection (2) and paragraphs (b), (f), (h), and (j) of subsection (3) of section 110.123, Florida Statutes, are amended, and paragraph (k) is added to subsection (3) of that section, to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in ss. 110.123-110.1239 ~~this section~~, the term:

(a) "Department" means the Department of Management Services.

(b) "Enrollee" means all state officers and employees, retired state officers and employees, surviving spouses of deceased state officers and employees, and terminated employees or individuals with continuation coverage who are enrolled in an insurance plan offered by the state group insurance program. "Enrollee" includes all state university officers and employees, retired state university officers and employees, surviving spouses of deceased state university officers and employees, and terminated state university employees or individuals with continuation coverage who are enrolled in an insurance plan offered by the state group insurance program.

(c) "Full-time state employees" means employees of all branches or agencies of state government holding salaried positions who are paid by state warrant or from agency funds and who work or are expected to work an average of at least 30 or more hours per week; employees paid from regular salary appropriations for 8 months' employment, including university personnel on academic contracts; and employees paid from other-



686242

personal-services (OPS) funds as described in subparagraphs 1. and 2. The term includes all full-time employees of the state universities. The term does not include seasonal workers who are paid from OPS funds.

1. For persons hired before April 1, 2013, the term includes any person paid from OPS funds who:

a. Has worked an average of at least 30 hours or more per week during the initial measurement period from April 1, 2013, through September 30, 2013; or

b. Has worked an average of at least 30 hours or more per week during a subsequent measurement period.

2. For persons hired after April 1, 2013, the term includes any person paid from OPS funds who:

a. Is reasonably expected to work an average of at least 30 hours or more per week; or

b. Has worked an average of at least 30 hours or more per week during the person's measurement period.

(d) "Health maintenance organization" or "HMO" means an entity certified under part I of chapter 641.

(e) "Health plan member" means any person participating in a state group health insurance plan, a TRICARE supplemental insurance plan, or a health maintenance organization plan under the state group insurance program, including enrollees and covered dependents thereof.

(f) "Part-time state employee" means an employee of any branch or agency of state government paid by state warrant from salary appropriations or from agency funds, and who is employed for less than an average of 30 hours per week or, if on academic contract or seasonal or other type of employment which is less



686242

than year-round, is employed for less than 8 months during any 12-month period, but does not include a person paid from other-personal-services (OPS) funds. The term includes all part-time employees of the state universities.

(g) "Plan year" means a calendar year.

(h)~~(g)~~ "Retired state officer or employee" or "retiree" means any state or state university officer or employee who retires under a state retirement system or a state optional annuity or retirement program or is placed on disability retirement, and who was insured under the state group insurance program at the time of retirement, and who begins receiving retirement benefits immediately after retirement from state or state university office or employment. The term also includes any state officer or state employee who retires under the Florida Retirement System Investment Plan established under part II of chapter 121 if he or she:

1. Meets the age and service requirements to qualify for normal retirement as set forth in s. 121.021(29); or

2. Has attained the age specified by s. 72(t)(2)(A)(i) of the Internal Revenue Code and has 6 years of creditable service.

(i)~~(h)~~ "State agency" or "agency" means any branch, department, or agency of state government. "State agency" or "agency" includes any state university for purposes of this section only.

(j)~~(i)~~ "Seasonal workers" has the same meaning as provided under 29 C.F.R. s. 500.20(s)(1).

(k)~~(j)~~ "State group health insurance plan or plans" or "state plan or plans" mean the state self-insured health insurance plan or plans offered to state officers and employees,



686242

retired state officers and employees, and surviving spouses of deceased state officers and employees pursuant to this section.

(1)~~(*)~~ "State-contracted HMO" means any health maintenance organization under contract with the department to participate in the state group insurance program.

(m)~~(l)~~ "State group insurance program" or "programs" means the package of insurance plans offered to state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees pursuant to this section, including the state group health insurance plan or plans, health maintenance organization plans, TRICARE supplemental insurance plans, and other plans required or authorized by law.

(n)~~(m)~~ "State officer" means any constitutional state officer, any elected state officer paid by state warrant, or any appointed state officer who is commissioned by the Governor and who is paid by state warrant.

(o)~~(n)~~ "Surviving spouse" means the widow or widower of a deceased state officer, full-time state employee, part-time state employee, or retiree if such widow or widower was covered as a dependent under the state group health insurance plan, ~~a~~ TRICARE supplemental insurance plan, or a health maintenance organization plan established pursuant to this section at the time of the death of the deceased officer, employee, or retiree. "Surviving spouse" also means any widow or widower who is receiving or eligible to receive a monthly state warrant from a state retirement system as the beneficiary of a state officer, full-time state employee, or retiree who died prior to July 1, 1979. For the purposes of this section, any such widow or



686242

widower shall cease to be a surviving spouse upon his or her remarriage.

(p) ~~(o)~~ "TRICARE supplemental insurance plan" means the Department of Defense Health Insurance Program for eligible members of the uniformed services authorized by 10 U.S.C. s. 1097.

(3) STATE GROUP INSURANCE PROGRAM.—

(b) It is the intent of the Legislature to offer a comprehensive package of health insurance and retirement benefits and a personnel system for state employees which are provided in a cost-efficient and prudent manner, and to allow state employees the option to choose benefit plans which best suit their individual needs. ~~Therefore, The state group insurance program is established which~~ may include the state group health insurance plan or plans, health maintenance organization plans, group life insurance plans, TRICARE supplemental insurance plans, group accidental death and dismemberment plans, ~~and group disability insurance plans, — Furthermore, the department is additionally authorized to establish and provide as part of the state group insurance program any other group insurance plans or coverage choices, and other benefits authorized by law that are consistent with the provisions of s. 125 of the Internal Revenue Code this section.~~

(f) Except as provided for in subparagraph (h)2., the state contribution toward the cost of any plan in the state group insurance program shall be uniform with respect to all state employees in a state collective bargaining unit participating in the same coverage tier in the same plan. This section does not prohibit the development of separate benefit plans for officers



686242

and employees exempt from the career service or the development of separate benefit plans for each collective bargaining unit. For the 2020 plan year and each plan year thereafter, if the state's contribution is more than the premium cost of the health plan selected by the employee, subject to federal limitation, the employee may elect to have the balance:

1. Credited to the employee's flexible spending account;
2. Credited to the employee's health savings account;
3. Used to purchase additional benefits offered through the state group insurance program; or
4. Used to increase the employee's salary.

(h)1. A person eligible to participate in the state group insurance program may be authorized by rules adopted by the department, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and



686242

outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; age-based and gender-based wellness benefits; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO. As used in this paragraph, the term "age-based and gender-based wellness benefits" includes aerobic exercise, education in alcohol and substance abuse prevention, blood cholesterol screening, health risk appraisals, blood pressure screening and education, nutrition education, program planning, safety belt education, smoking cessation, stress management, weight management, and women's health education.

b. The department may establish uniform deductibles, copayments, coverage tiers, or coinsurance schedules for all participating HMO plans.

c. The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing prepaid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary



686242

for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate. Nothing shall preclude the department from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the department determines that the plan offers high value to enrollees.

d. The department may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the department receives, the number of state employees in the service area, or any unique geographical characteristics of the service area. The department shall establish by rule service areas throughout the state.

e. All persons participating in the state group insurance program may be required to contribute towards a total state group health premium that may vary depending upon the plan, benefit level, and coverage tier selected by the enrollee and the level of state contribution authorized by the Legislature.

3. The department is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.



686242

4. In addition to contracting pursuant to subparagraph 2., the department may enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25-percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the department in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a.-d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal or invitation to negotiate process described in subparagraph 2.

5. All enrollees in a state group health insurance plan, a TRICARE supplemental insurance plan, or any health maintenance organization plan have the option of changing to any other health plan that is offered by the state within any open



686242

enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data



686242

submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs. Beginning with the 2018 plan year, the package of benefits may also include products and services described in s. 110.12303.

a. Based upon a desired benefit package, the department shall issue a request for proposal or invitation to negotiate for ~~health insurance~~ providers interested in participating in the state group insurance program, and the department shall issue a request for proposal or invitation to negotiate for ~~insurance~~ providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the department may enter into contract negotiations with ~~insurance~~ providers submitting bids or negotiate a specially designed benefit package. ~~Insurance~~ Providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the department in the supplemental insurance benefit plan established by the department without participating in a request for proposal, submitting bids, negotiating contracts, or



686242

negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, except as provided in subparagraph (f)3., no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans. With respect to dental coverage, the division shall include in any solicitation or contract for any state group dental program made after July 1, 2001, a comprehensive indemnity dental plan option which offers enrollees a completely unrestricted choice of dentists. If a dental plan is endorsed, or in some manner recognized as the preferred product, such plan shall include a comprehensive indemnity dental plan option which provides enrollees with a completely unrestricted choice of dentists.

b. Pursuant to the applicable provisions of s. 110.161, and s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

(j)1. For the 2020 plan year and each plan year thereafter, health plans shall be offered in the following benefit levels:

a. Platinum level, which shall have an actuarial value of at least 90 percent.

b. Gold level, which shall have an actuarial value of at least 80 percent.



686242

c. Silver level, which shall have an actuarial value of at least 70 percent.

d. Bronze level, which shall have an actuarial value of at least 60 percent.

2. For purposes of this paragraph, the term "actuarial value" means the percentage paid by a health plan of the percentage of the total allowed costs of benefits

~~Notwithstanding paragraph (f) requiring uniform contributions, and for the 2011-2012 fiscal year only, the state contribution toward the cost of any plan in the state group insurance plan is the difference between the overall premium and the employee contribution. This subsection expires June 30, 2012.~~

(k) In consultation with the independent benefits consultant described in s. 110.12304, the department shall develop a plan for implementation of the benefit levels described in paragraph (j). The plan shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2019, and must include an actuarial study of the trends, costs, and savings over the next 15 years which are associated with the implementation of benefit levels for employers and enrollees. The plan must also include recommendations for:

1. Employer and enrollee contribution policies.

2. Steps necessary for maintaining or improving total employee compensation levels.

3. An education strategy to inform employees of the additional choices available in the state group insurance program.



686242

This paragraph expires July 1, 2019.

Section 14. Section 110.12303, Florida Statutes, is created to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—Beginning with the 2018 plan year:

(1) In addition to the comprehensive package of health insurance and other benefits required or authorized to be included in the state group insurance program, the package of benefits may also include products and services consistent with the provisions of s. 125 of the Internal Revenue Code which are offered by:

(a) Prepaid limited health service organizations authorized pursuant to part I of chapter 636.

(b) Discount medical plan organizations authorized pursuant to part II of chapter 636.

(c) Prepaid health clinics licensed under part II of chapter 641.

(d) Licensed health care providers, including hospitals and other health care facilities, health care clinics, and health professionals, who sell service contracts and arrangements for a specified amount and type of health services.

(e) Provider organizations, including service networks, group practices, professional associations, and other incorporated organizations of providers, who sell service contracts and arrangements for a specified amount and type of health services.

(f) Entities that provide specific health services in accordance with applicable state law and sell service contracts



686242

and arrangements for a specified amount and type of health services.

(g) Entities that provide health services or treatments through a bidding process.

(h) Entities that provide health services or treatments through the bundling or aggregating of health services or treatments.

(i) Entities that provide other innovative and cost-effective health service delivery methods.

(2)(a) The department shall contract with at least one entity that provides comprehensive pricing and inclusive services for surgery and other medical procedures which may be accessed at the option of the enrollee. The contract shall require the entity to:

1. Have procedures and evidence-based standards to ensure the inclusion of only high-quality health care providers.

2. Provide assistance to the enrollee in accessing and coordinating care.

3. Provide cost savings to the state group insurance program to be shared equally with both the state and the enrollee. Cost savings payable to an enrollee may be:

a. Credited to the enrollee's flexible spending account;

b. Credited to the enrollee's health savings account;

c. Credited to the enrollee's health reimbursement account;

or

d. Paid as additional health plan reimbursements not exceeding the amount of the enrollee's out-of-pocket medical expenses.

4. Provide, subject to approval by the department, an



686242

educational campaign for enrollees to learn about the services offered by the entity.

(b)1. On or before February 1 of each year, the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level and cost-savings to both the enrollee and the state resulting from the contract or contracts described in this subsection.

2. In preparation of its report, the department must use the official information developed by the Self-Insurance Estimating Conference relating to the cost savings of the program.

(3) The department shall contract with an entity that provides enrollees with online information on the cost and quality of health care services and providers, allows an enrollee to shop for health care services and providers, and rewards the enrollee by sharing savings generated by the enrollee's choice of services or providers. The contract shall require the entity to:

(a) Establish an Internet-based, consumer-friendly platform that educates and informs enrollees about the price and quality of health care services and providers, including the average amount paid in each county for health care services and providers. The average amounts paid for such services and providers may be expressed for service bundles, which include all products and services associated with a particular treatment or episode of care, or for separate and distinct products and services.

(b) Allow enrollees to shop for health care services and



686242

providers using the price and quality information provided on the Internet-based platform.

(c) Permit a certified bargaining agent of state employees to provide educational materials and counseling, subject to approval by the department, to enrollees regarding the Internet-based platform.

(d) Identify the savings realized to the enrollee and state if the enrollee chooses high-quality, lower-cost health care services or providers, and facilitate a shared savings payment to the enrollee. The amount of shared savings shall be determined by a methodology approved by the department and shall maximize value-based purchasing by enrollees. The amount payable to the enrollee may be:

1. Credited to the enrollee's flexible spending account;
2. Credited to the enrollee's health savings account;
3. Credited to the enrollee's health reimbursement account;

or

4. Paid as additional health plan reimbursements not exceeding the amount of the enrollee's out-of-pocket medical expenses.

(e)1. On or before February 1 of each year, the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level, amount paid to enrollees, and cost-savings to both the enrollees and the state resulting from the implementation of this subsection.

2. In preparation of its report, the department must use the official information developed by the Self-Insurance Estimating Conference relating to the cost savings of the



686242

program.

(4) (a) The programs established pursuant to subsections (2) and (3) are limited to enrollees in the self-insured products offered through the state group insurance program.

(b) The programs may be expanded to include enrollees in the fully insured products if the department and the state-contracted HMO execute an agreement on the implementation of the program, including a limited program, which does not result in additional costs to the state group insurance program.

Section 15. Section 110.12304, Florida Statutes, is created to read:

110.12304 Independent benefits consultant.—

(1) The department shall competitively procure an independent benefits consultant.

(2) The independent benefits consultant may not:

(a) Be owned or controlled by a health maintenance organization or insurer.

(b) Have an ownership interest in a health maintenance organization or insurer.

(c) Have a direct or indirect financial interest in a health maintenance organization or insurer.

(3) The independent benefits consultant must have substantial experience in consultation and design of employee benefit programs for large employers and public employers, including experience with plans that qualify as cafeteria plans under s. 125 of the Internal Revenue Code of 1986.

(4) The independent benefits consultant shall:

(a) Provide an ongoing assessment of trends in benefits and employer-sponsored insurance that affect the state group



686242

insurance program.

(b) Conduct a comprehensive analysis of the state group insurance program, including available benefits, coverage options, and claims experience.

(c) Identify and establish appropriate adjustment procedures necessary to respond to any risk segmentation that may occur when increased choices are offered to employees.

(d) Assist the department with the submission of any necessary plan revisions for federal review.

(e) Assist the department in ensuring compliance with applicable federal and state regulations.

(f) Assist the department in monitoring the adequacy of funding and reserves for the state self-insured plan.

(g) Assist the department in preparing recommendations for any modifications to the state group insurance program which shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1 of each year.

Section 16. (1) For the 2017-2018 fiscal year, the sums of \$151,216 in recurring funds and \$507,546 in nonrecurring funds are appropriated from the State Employees Health Insurance Trust Fund to the Department of Management Services, and two full-time equivalent positions and associated salary rate of 120,000 are authorized, for the purpose of implementing this act.

(2) (a) The recurring funds appropriated in this section shall be allocated to the following specific appropriation categories within the Insurance Benefits Administration Program: \$150,528 in Salaries and Benefits and \$688 in Special Categories Transfer to Department of Management Services-Human Resources



686242

Purchased per Statewide Contract.

(b) The nonrecurring funds appropriated in this section shall be allocated to the following specific appropriation categories: \$500,000 in Special Categories Contracted Services and \$7,546 in Expenses.

Section 17. (1) PURPOSE.—This section provides instructions for implementing the 2017-2018 fiscal year salary and benefit adjustments provided in this act. All allocations, distributions, and uses of these funds are to be made in strict accordance with the provisions of this act and chapter 216, Florida Statutes.

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature that the minimum for each pay grade and pay band may not be adjusted during the 2017-2018 fiscal year and that the maximums for each pay grade and pay band shall be adjusted upward by 6 percent, effective July 1, 2017. In addition, the Legislature intends that all eligible employees receive the increases specified in this section, even if the implementation of such increases results in an employee's salary exceeding the adjusted pay grade maximum. Salary increases provided under this section shall be prorated based on the full-time equivalency of the employee's position. Employees classified as other-personnel-services employees are not eligible for an increase based on the implementation of increases authorized in this section.

(3) LAW ENFORCEMENT COMPENSATION ADJUSTMENTS.—

(a) Effective July 1, 2017, funds are provided in section 18 of this act to grant a competitive pay adjustment of 5 percent of each eligible law enforcement employee's base rate of pay on June 30, 2017, in the Department of Legal Affairs, the



686242

Department of Agriculture and Consumer Services, the Department of Financial Services, the Department of Law Enforcement, the Department of Highway Safety and Motor Vehicles, the Department of Business and Professional Regulation, and the Department of the Lottery; the Fish and Wildlife Conservation Commission; the offices of State Attorneys; and the Florida Commission on Offender Review.

(b) For purposes of this subsection, the term "law enforcement employee" means:

1. Sworn officers of the Law Enforcement, Florida Highway Patrol, Special Agent, and Lottery Law Enforcement bargaining units in the following classification codes: Law Enforcement Officer (8515); Law Enforcement Corporal (8517); Law Enforcement Sergeant (8519); Law Enforcement Investigator I (8540); Law Enforcement Investigator II (8541); Law Enforcement Airplane Pilot I (8532); Law Enforcement Airplane Pilot II (8534); Special Agent Trainee (8580); Special Agent (8581); Special Agent I (2724); Special Agent II (2608); Security Agent-FDLE (8593); and Security Agent Supervisor-FDLE (8596).

2. Sworn officers in the following classification codes: Law Enforcement Lieutenant (8522); Law Enforcement Captain (8525 and 8632); Law Enforcement Major (8526, 8626, and 8630); Special Agent Supervisor (1126 and 8584); Inspector-FDLE (8590); and Investigators I-VI (6661, 6662, 6663, 6664, 6665, and 6666).

(4) DEPARTMENT OF CORRECTIONS COMPENSATION ADJUSTMENTS.—

(a) Effective October 1, 2017, the Department of Corrections shall adjust the minimum base rate of pay for its positions in the correctional officer classification series as follows:



686242

1. Correctional officer (8003) to \$33,500.

2. Correctional officer sergeant (8005) to \$36,850.

3. Correctional officer lieutenant (8011) to \$40,535.

4. Correctional officer captain (8013) to \$44,589.

(b) Effective October 1, 2017, funds are provided in section 18 of this act to fund the adjustments to the minimum base rates of pay authorized in paragraph (a) and to fund competitive pay adjustments to all other employees of the Department of Corrections filling a position in the correctional officer classification series (class codes 8003, 8005, 8011, and 8013). The adjustments to the base rate of pay shall be the amount necessary to increase the employee's base rate of pay as of September 30, 2017, to the applicable class minimum specified in paragraph (a) or by \$2,500, whichever amount is greater.

(5) ASSISTANT PUBLIC DEFENDER COMPENSATION ADJUSTMENTS.—
Effective October 1, 2017, funds are provided in section 18 of this act to grant a competitive pay adjustment of 6 percent of each eligible employee's base rate of pay as of September 30, 2017, eligible assistant public defender (class code 5901) and each eligible assistant public defender chief (class code 5909). For purposes of this subsection, an "eligible employee" means an employee filling a position as an assistant public defender (class code 5901) or as an assistant public defender chief (class code 5909) who has completed at least 3 years of service as an attorney in the judicial circuit in which the attorney is currently employed.

(6) COMPENSATION ADJUSTMENTS FOR CERTAIN OFFICERS AND DESIGNATED EMPLOYEES.—

(a) For the period July 1, 2017, through September 30,



686242

2017, the following officers and designated employees shall be paid at the annual rate authorized in this paragraph:

1. Supreme Court Justices at the annual rate of \$162,200.
2. District Court of Appeal Judges at the annual rate of \$154,140.
3. Circuit Court Judges at the annual rate of \$146,080.
4. County Court Judges at the annual rate of \$138,020.
5. State Attorneys at the annual rate of \$154,140.
6. Public Defenders at the annual rate of \$154,140.
7. Criminal Conflict and Civil Regional Counsels at the annual rate of \$105,000.

(b) Beginning October 1, 2017, from the funds provided in section 18 of this act, the following officers and designated employees shall be paid at the annual rate authorized in this paragraph:

1. Supreme Court Justices at the annual rate of \$178,420.
2. District Court of Appeal Judges at the annual rate of \$169,554.
3. Circuit Court Judges at the annual rate of \$160,688.
4. County Court Judges at the annual rate of \$151,822.
5. State Attorneys at the annual rate of \$169,554.
6. Public Defenders at the annual rate of \$169,554.
7. Criminal Conflict and Civil Regional Counsels at the annual rate of \$115,000.

None of the officers, commission members, or employees whose salaries have been fixed in this subsection shall receive any supplemental salary or benefits from any county or municipality.

(7) EMPLOYEE AND OFFICER COMPENSATION ADJUSTMENTS.—



686242

(a) For purposes of this subsection, the term "competitive pay adjustment" means:

1. For employees with a base rate of pay of \$40,000 or less on September 30, 2017, an annual increase of \$1,400.

2. For employees with a base rate of pay greater than \$40,000 on September 30, 2017, an annual increase of \$1,000; provided however, in no instance may an employee's base rate of pay be increased to an annual amount less than \$41,400.

For the purpose of determining the applicable increase for part-time employees, the full-time equivalent value of the base rate of pay on September 30, 2017, shall be used; but the amount of the annual increase for a part-time employee must be proportional to the full-time equivalency of the employee's position.

(b) For purposes of this subsection, the term "eligible employees" means employees who are, at a minimum, meeting their required performance standards, if applicable. If an ineligible employee achieves performance standards subsequent to the salary increase implementation date but on or before the end of the 2017-2018 fiscal year, the employee may receive an increase; however, such increase shall take effect on the date the employee becomes eligible and is not retroactive to the salary increase implementation date. In addition, the salary increase provided under this section shall be prorated based on the full-time equivalency of the employee's position. Employees classified as being other-personnel-services employees are not eligible for an increase.

(c) Effective October 1, 2017, funds are provided in



686242

section 18 of this act to grant competitive pay adjustments for all eligible employees in the Career Service, the Selected Exempt Service, the Senior Management Service, the lottery pay plan, the judicial branch pay plan, the legislative pay plan, and the pay plans administered by the Justice Administration Commission, except those officers and employees receiving compensation adjustments pursuant to subsections (3), (4), (5), and (6) and paragraphs (8)(c) and (8)(d).

(8) SPECIAL PAY ISSUES.—

(a) The Department of Highway Safety and Motor Vehicles is authorized to increase the minimum annual salaries of current and new employees hired to fill positions in the law enforcement officer class (class code 8515) to \$36,223. This paragraph is effective upon becoming a law.

(b) From funds in section 18 of this act, the Department of Veterans' Affairs is authorized to implement its competitive pay plan proposed in the department's initial legislative budget request to address recruitment and retention of its employees who hold an active nursing assistant certification and fill a position in one of the following classification codes: certified nursing assistant (class code 5707); senior certified nursing assistant (class code 5708); therapy aide I (class code 5556); or therapy aide II (class code 5557).

(c) From funds in section 18 of this act, and beginning October 1, 2017, the Justice Administrative Commission is authorized to implement the salary adjustment proposed in its initial legislative budget request for the Statewide Guardian Ad Litem Program. To be eligible to receive this competitive pay adjustment, the employee must be an employee of the Statewide



686242

Guardian Ad Litem Program and must fill a position in one of the following classification codes: child advocate manager (class code 8401); senior child advocate manager (class code 8402); volunteer recruiter (class code 8403); program attorney (class code 8700); or senior program attorney (class code 8701).

(d) From the funds in section 18 of this act, and beginning April 1, 2018, the Department of Legal Affairs is authorized to:

1. Increase the starting salary of employees in the Attorney-Assistant Attorney General class (class code 7737) to \$43,900;

2. Grant a competitive pay adjustment of \$6,000 to each employee employed as an Assistant Attorney General (class code 7746) who has worked for the department for at least 2 years and meets or exceeds performance expectations; and

3. Grant a competitive pay adjustment of \$3,000 to each employee employed as a Senior Assistant Attorney General (class code 7747); Attorney Supervisor-Assistant Attorney General (class code 7744); Special Counsel-Assistant Attorney General (class code 7165); Chief-Assistant Attorney General (class code 7748); Assistant Statewide Prosecutor-Attorney (class code 8681); Assistant Statewide Prosecutor-Senior Attorney (class code 8682); Assistant Statewide Prosecutor-Special Counsel (class code 6120); or Assistant Statewide Prosecutor-Chief (class code 9191) who has worked for the department for at least 2 years and meets or exceeds performance expectations.

(9) PAY ADDITIVES AND OTHER INCENTIVE PROGRAMS.—The following pay additives and other incentive programs are authorized for the 2017-2018 fiscal year from existing agency resources consistent with the provisions of ss. 110.2035 and



686242

216.251, Florida Statutes, the applicable rules adopted by the Department of Management Services, and negotiated collective bargaining agreements.

(a) Each agency is authorized to continue to pay, at the levels in effect on June 30, 2007, on-call fees and shift differentials as necessary to perform normal operations of the agency.

(b) Each agency that had a training program in existence on June 30, 2006, which included granting pay additives to participating employees, is authorized to continue such training program for the 2017-2018 fiscal year. Such additives shall be granted in accordance with applicable law, administrative rules, and collective bargaining agreements.

(c) Each agency is authorized to continue to grant temporary special duties pay additives to employees assigned additional duties as a result of another employee being absent from work pursuant to the federal Family Medical Leave Act or authorized military leave.

(d) Contingent upon the availability of funds, and at the agency head's discretion, each agency is authorized to grant competitive pay adjustments to a cohort of 10 or fewer employees sharing the same job classification or job occupations to address retention, pay inequities, or other staffing issues. The agency is responsible for retaining sufficient documentation justifying any adjustments provided herein to an employee's compensation. The authority granted by this paragraph may be used only once by each agency during the 2017-2018 fiscal year.

(e) Contingent upon the availability of funds, and at the agency head's discretion, each agency is authorized to grant a



686242

competitive pay adjustment to an employee to address retention,
pay inequities, or other staffing issues. The agency is
responsible for retaining sufficient documentation justifying
any adjustments provided herein to an employee's compensation.

(f) Each agency is authorized to grant merit pay increases
based on the employee's exemplary performance as evidenced by a
performance evaluation conducted pursuant to chapter 60L-35,
Florida Administrative Code, or a similar performance evaluation
applicable to other pay plans. The Chief Justice may exempt
judicial branch employees from the performance evaluation
requirements of this paragraph.

(g) Contingent upon the availability of funds and at the
agency head's discretion, each agency is authorized to grant a
temporary special duties pay additive, of up to 15 percent of
the employee's base rate of pay, to each employee temporarily
deployed to a facility or area closed due to emergency
conditions from another area of the state that is not closed.

(h) The Fish and Wildlife Conservation Commission may
continue to grant temporary special duty pay additives to law
enforcement officers who perform additional duties as K-9
handlers, regional recruiters/media coordinators, and breath
test operators/inspectors, and may grant temporary special duty
pay additives to law enforcement officers who perform additional
duties as offshore patrol vessel crew members, special
operations group members, and long-term covert investigators.

(i) The Fish and Wildlife Conservation Commission is
authorized to grant critical market pay additives to employees
residing in and assigned to Broward County, Collier County, Lee
County, Miami-Dade County, or Monroe County, at the levels that



686242

the employing agency granted salary increases for similar purposes before July 1, 2006. These critical market pay additives may be granted only during the time in which the employee resides in and is assigned to duties within those counties. The employee may not receive an adjustment to the employee's base rate of pay and a critical market pay additive based on the employee residing in and being assigned in the specified counties.

(j) The Department of Highway Safety and Motor Vehicles is authorized to grant critical market pay additives to sworn law enforcement officers residing in and assigned to:

1. Lee County, Collier County, or Monroe County, at the levels that the employing agency granted salary increases for similar purposes before July 1, 2006.

2. Duval, Escambia, Hillsborough, Marion, Orange, and Pinellas Counties, at \$5,000, or, in lieu thereof, an equivalent salary adjustment that was made during the 2015-2016 fiscal year.

3. Pasco County at \$5,000.

These critical market pay additives may be granted only during the time in which the employee resides in, and is assigned to duties within, those counties. The employee may not receive an adjustment to the employee's base rate of pay and a critical market pay additive based on the employee residing in and being assigned in the specified counties.

(k) The Department of Highway Safety and Motor Vehicles may grant special duty pay additives of \$2,000 for law enforcement officers who perform additional duties as K-9 handlers; felony



686242

officers; criminal interdiction officers; criminal investigation and intelligence officers; new recruit background checks and training, and technical support officers; drug recognition experts; hazardous material squad members; compliance investigation squad members; motorcycle squad members; Quick Response Force Team; or Florida Advanced Investigation and Reconstruction Teams.

(l) The Department of Highway Safety and Motor Vehicles may provide a critical market pay additive of \$1,300 to non-sworn Florida Highway Patrol personnel working and residing in Broward and Miami-Dade Counties. These critical market pay additives shall be granted during the time the employee resides in, and is assigned duties within, those counties.

(m) The Department of Highway Safety and Motor Vehicles is authorized to continue to grant a pay additive of \$162.50 per pay period for law enforcement officers assigned to the Office of Motor Carrier Compliance who maintain certification by the Commercial Vehicle Safety Alliance.

(n) The Department of Transportation is authorized to continue its training program for employees in the areas of transportation engineering, right-of-way acquisition, relocation benefits administration, right-of-way property management, real estate appraisal, and business valuation under the same guidelines established for the training program before June 30, 2006.

(o) The Department of Corrections may continue to grant hazardous duty pay additives, as necessary, to those employees assigned to the Department of Corrections institutions' Rapid Response Teams, including the baton, shotgun, and chemical agent



686242

teams, and the Correctional Emergency Response Teams.

(p) The Department of Corrections is authorized to award a temporary special duties pay additive of up to 10 percent of the employee's base rate of pay for each certified correctional officer (class code 8003); certified correctional officer sergeant (class code 8005); certified correctional officer lieutenant (class code 8011); and certified correctional officer captain (class code 8013). For purposes of determining eligibility for this special pay additive, the term "certified" means the employee has obtained a correctional behavioral mental health certification as provided through the American Correctional Association. Such additive may be awarded only during the time the certified officer is employed in an assigned mental health unit post.

(q) The Department of Corrections is authorized to award a one-time \$1,000 hiring bonus to newly-hired correctional officers (class code 8003) who are hired to fill positions at a correctional institution that had a vacancy rate for such positions of more than 10 percent for the preceding calendar quarter. The bonus may not be awarded before the officer obtaining his or her correctional officer certification. Current employees and former employees who have had a break in service with the Department of Corrections of 31 days or less, are not eligible for this bonus.

Section 18. The sums of \$112,210,610 of recurring funds in the General Revenue Fund and \$73,949,000 of recurring funds from trust funds are appropriated for the salary adjustments authorized in section 17 of this act. The Office of Policy and Budget in the Executive Office of the Governor, in consultation



686242

with the Legislature, shall distribute the funds and budget
authority to the state agencies and the legislative and judicial
branches in accordance with chapter 216, Florida Statutes.

Section 19. Except as otherwise expressly provided in this
act and except for this section, which shall take effect upon
becoming a law, this act shall take effect July 1, 2017.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to benefits and salaries for public
employees; creating s. 112.1816, F.S.; defining the
term "firefighter"; establishing a presumption as to a
firefighter's condition or impairment of health caused
by certain types of cancer that he or she contracts in
the line of duty; specifying criteria a firefighter
must meet to be entitled to the presumption; requiring
an employing agency to provide a physical examination
for a firefighter; specifying circumstances under
which the presumption does not apply; providing for
applicability; amending s. 121.053, F.S.; authorizing
renewed membership in the Florida Retirement System
for retirees who are reemployed in a position eligible
for the Elected Officers' Class under certain
circumstances; amending s. 121.055, F.S.; providing
for renewed membership in the retirement system for
retirees of the Senior Management Service Optional



686242

2196 Annuity Program who are reemployed on or after a
2197 specified date; closing the Senior Management Service
2198 Optional Annuity Program to new members after a
2199 specified date; amending s. 121.091, F.S.; revising
2200 criteria for eligibility of payment of death benefits
2201 to the surviving children of a Special Risk Class
2202 member killed in the line of duty under specified
2203 circumstances; conforming a provision to changes made
2204 by the act; amending s. 121.122, F.S.; requiring that
2205 certain retirees who are reemployed on or after a
2206 specified date be renewed members in the investment
2207 plan; providing exceptions; specifying that creditable
2208 service does not accrue for employment during a
2209 specified period; prohibiting certain funds from being
2210 paid into a renewed member's investment plan account
2211 for a specified period of employment; requiring the
2212 renewed member to satisfy vesting requirements;
2213 prohibiting a renewed member from receiving specified
2214 disability benefits; specifying limitations and
2215 requirements; requiring the employer and the retiree
2216 to make applicable contributions to the renewed
2217 member's investment plan account; providing for the
2218 transfer of contributions; authorizing a renewed
2219 member to receive additional credit toward the health
2220 insurance subsidy under certain circumstances;
2221 prohibiting participation in the pension plan;
2222 providing that a retiree reemployed on or after a
2223 specified date in a regularly established position
2224 eligible for the State University System Optional



686242

2225 Retirement Program or State Community College System
2226 Optional Retirement Program is a renewed member of
2227 that program; specifying limitations and requirements;
2228 requiring the employer and the retiree to make
2229 applicable contributions; amending s. 121.4501, F.S.;
2230 revising definitions; revising a provision relating to
2231 acknowledgement of an employee's election to
2232 participate in the investment plan; enrolling certain
2233 employees in the pension plan from their date of hire
2234 until they are automatically enrolled in the
2235 investment plan or timely elect enrollment in the
2236 pension plan; providing an exception for employees who
2237 are in positions in the Special Risk Class; providing
2238 certain members with a specified timeframe within
2239 which they may choose participation in the pension
2240 plan or the investment plan; conforming provisions to
2241 changes made by the act; amending s. 121.591, F.S.;
2242 authorizing payment of death benefits to the surviving
2243 spouse or surviving children of a member in the
2244 investment plan; establishing qualifications and
2245 eligibility requirements for receipt of such benefits;
2246 prescribing the method of calculating the benefit;
2247 specifying circumstances under which benefit payments
2248 are terminated; amending s. 121.5912, F.S.; revising a
2249 provision regarding program qualification under the
2250 Internal Revenue Code and rulemaking authority, to
2251 conform to changes made by the act; amending s.
2252 121.735, F.S.; revising allocations to fund line-of-
2253 duty death benefits for investment plan members, to



686242

2254 conform to changes made by the act; requiring the
2255 Legislature to review specified cancer research
2256 programs by a certain date; revising employer
2257 contribution rates to fund changes made by the act;
2258 providing a directive to the Division of Law Revision
2259 and Information; providing a declaration of important
2260 state interest; amending s. 110.123, F.S.; revising
2261 applicability of certain definitions; defining the
2262 term "plan year"; authorizing the state group
2263 insurance program to include additional benefits;
2264 authorizing an employee to use a specified portion of
2265 the state's contribution to purchase additional
2266 program benefits and supplemental benefits under
2267 certain circumstances; providing for the program to
2268 offer health plans in specified benefit levels;
2269 defining the term "actuarial value"; requiring the
2270 Department of Management Services to develop a plan
2271 for implementation of the benefit levels; providing
2272 reporting requirements; providing for expiration of
2273 the implementation plan; creating s. 110.12303, F.S.;
2274 authorizing additional benefits to be included in the
2275 state group insurance program; requiring the
2276 department to contract with at least one entity that
2277 provides comprehensive pricing and inclusive services
2278 for surgery and other medical procedures; providing
2279 contract and reporting requirements; requiring the
2280 department to contract with an entity to provide
2281 enrollees with online information on health care
2282 services and providers; providing contract and



686242

2283 reporting requirements; specifying applicability;
2284 creating s. 110.12304, F.S.; directing the department
2285 to competitively procure an independent benefits
2286 consultant; providing qualifications and duties of the
2287 independent benefits consultant; providing reporting
2288 requirements; providing an appropriation and
2289 authorizing positions; providing a purpose and
2290 legislative intent with respect to provisions
2291 governing salary and benefit adjustments for specified
2292 state employees; providing for compensation
2293 adjustments for law enforcement personnel, the
2294 Department of Corrections, Assistant Public Defenders,
2295 certain judicial officers and designated employees,
2296 and other state employees and officers; authorizing
2297 the use of specified pay additives and other incentive
2298 programs for the 2017-2018 fiscal year; providing
2299 appropriations to fund the salary and benefit
2300 adjustments; requiring the Office of Policy and Budget
2301 in the Executive Office of the Governor, in
2302 consultation with the Legislature, to distribute funds
2303 and budget authority; providing effective dates.



584972

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment to Amendment (686242) (with title amendment)

Between lines 2169 and 2170
insert:

Section 19. Subsection (3) of section 121.031, Florida Statutes, is amended to read

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(3) The administrator shall cause an actuarial study of the



584972

11 system to be made at least annually and shall report the results
12 of such study to the ~~Legislature~~ Governor, the President of the
13 Senate, and the Speaker of the House of Representatives by
14 December 31 prior to the next legislative session. The study
15 shall, at a minimum, conform to the requirements of s. 112.63,
16 with the following exceptions and additions:

17 (a) The valuation of plan assets shall be based on a 5-year
18 averaging methodology such as that specified in the United
19 States Department of Treasury Regulations, 26 C.F.R. s.
20 1.412(c)(2)-1 in effect on August 16, 2006, or a similar
21 accepted approach designed to attenuate fluctuations in asset
22 values.

23 (b) The study shall include a narrative explaining the
24 changes in the covered group over the period between actuarial
25 valuations and the impact of those changes on actuarial results.

26 (c) When substantial changes in actuarial assumptions have
27 been made, the study shall reflect the results of an actuarial
28 assumption as of the current date based on the assumptions
29 utilized in the prior actuarial report.

30 (d) The study shall include an analysis of the changes in
31 actuarial valuation results by the factors generating those
32 changes. Such analysis shall reconcile the current actuarial
33 valuation results with those results from the prior valuation.

34 (e) The study shall include measures of funding status and
35 funding progress designed to facilitate the assessment of trends
36 over several actuarial valuations with respect to the overall
37 solvency of the system. Such measures shall be adopted by the
38 department and shall be used consistently in all actuarial
39 valuations performed on the system.



584972

(f) The study shall include an analysis of the assumed rate of return adopted by the Florida Retirement System Actuarial Assumption Conference pursuant to s. 216.136(10). This analysis shall include specific recommendations regarding an appropriate assumed rate of return.

~~(f)~~(g) The actuarial model used to determine the adequate level of funding for the Florida Retirement System shall include a specific rate stabilization mechanism, as prescribed herein. It is the intent of the Legislature to maintain as a reserve a specific portion of any actuarial surplus, and to use such reserve for the purpose of offsetting future unfunded liabilities caused by experience losses, thereby minimizing the risk of future increases in contribution rates. It is further the intent of the Legislature that the use of any excess above the reserve to offset retirement system normal costs shall be in a manner that will allow system employers to plan appropriately for resulting cost reductions and subsequent cost increases. The rate stabilization mechanism shall operate as follows:

1. The actuarial surplus shall be the value of actuarial assets over actuarial liabilities, as is determined on the preceding June 30 or as may be estimated on the preceding December 31.

2. The full amount of any experience loss shall be offset, to the extent possible, by any actuarial surplus.

3. If the actuarial surplus exceeds 5 percent of actuarial liabilities, one-half of the excess may be used to offset total retirement system costs. In addition, if the actuarial surplus exceeds 10 percent of actuarial liabilities, an additional one-fourth of the excess above 10 percent may be used to offset



584972

total retirement system costs. In addition, if the actuarial surplus exceeds 15 percent of actuarial liabilities, an additional one-fourth of the excess above 15 percent may be used to offset total retirement system costs.

4. Any surplus amounts available to offset total retirement system costs pursuant to subparagraph 3. should be amortized each year over a 10-year rolling period on a level-dollar basis.

Section 20. Section 121.0312, Florida Statutes, is amended to read

121.0312 Acknowledgement of review ~~Review~~; actuarial valuation report; contribution rate determination process.-

(1) The Governor, Chief Financial Officer, and Attorney General, sitting as the Board of Trustees of the State Board of Administration, shall review the actuarial valuation report prepared in accordance with the provisions of this chapter. The Board shall review the process by which Florida Retirement System contribution rates are determined and recommend and submit any comments regarding the process to the Legislature.

(2) Effective July 1, 2019, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall within 30 days of receipt, acknowledge in writing, their acceptance, and review of, the actuarial valuation report prepared in accordance with the provisions of this chapter and any recommendations regarding actuarial assumptions contained therein. The department shall publish the written acknowledgements as addendums to the report.

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

And the title is amended as follows:



584972

98 Delete line 2303
99 and insert:
100 and budget authority; amending s. 121.031; providing
101 criteria to be included in the annual actuarial
102 valuation report; amending s. 121.0312; requiring
103 acknowledgement and review of the report; providing
104 effective dates.

By the Committee on Governmental Oversight and Accountability

585-04368-17

20177030__

1 A bill to be entitled
 2 An act relating to retirement; creating s. 112.1816,
 3 F.S.; defining the term "firefighter"; establishing a
 4 presumption as to a firefighter's condition or
 5 impairment of health caused by certain types of cancer
 6 he or she contracts in the line of duty; specifying
 7 criteria a firefighter must meet to be entitled to the
 8 presumption; requiring an employing agency to provide
 9 a physical examination for a firefighter; specifying
 10 circumstances under which the presumption does not
 11 apply; providing for applicability; amending s.
 12 121.053, F.S.; authorizing renewed membership in the
 13 Florida Retirement System for retirees who are
 14 reemployed in a position eligible for the Elected
 15 Officers' Class under certain circumstances; amending
 16 s. 121.055, F.S.; providing for renewed membership in
 17 the retirement system for retirees of the Senior
 18 Management Service Optional Annuity Program who are
 19 reemployed on or after a specified date; closing the
 20 Senior Management Service Optional Annuity Program to
 21 new members after a specified date; amending s.
 22 121.091, F.S.; revising criteria for eligibility of
 23 payment of death benefits to the surviving children of
 24 a Special Risk Class member killed in the line of duty
 25 under specified circumstances; conforming a provision
 26 to changes made by the act; amending s. 121.122, F.S.;
 27 requiring that certain retirees who are reemployed on
 28 or after a specified date be renewed members in the
 29 investment plan; providing exceptions; specifying that

Page 1 of 47

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585-04368-17

20177030__

30 creditable service does not accrue for employment
 31 during a specified period; prohibiting certain funds
 32 from being paid into a renewed member's investment
 33 plan account for a specified period of employment;
 34 requiring the renewed member to satisfy vesting
 35 requirements; prohibiting a renewed member from
 36 receiving specified disability benefits; specifying
 37 limitations and requirements; requiring the employer
 38 and the retiree to make applicable contributions to
 39 the renewed member's investment plan account;
 40 providing for the transfer of contributions;
 41 authorizing a renewed member to receive additional
 42 credit toward the health insurance subsidy under
 43 certain circumstances; prohibiting participation in
 44 the pension plan; providing that a retiree reemployed
 45 on or after a specified date in a regularly
 46 established position eligible for the State University
 47 System Optional Retirement Program or State Community
 48 College System Optional Retirement Program is a
 49 renewed member of that program; specifying limitations
 50 and requirements; requiring the employer and the
 51 retiree to make applicable contributions; amending s.
 52 121.4501, F.S.; revising definitions; revising a
 53 provision relating to acknowledgement of an employee's
 54 election to participate in the investment plan;
 55 enrolling certain employees in the pension plan from
 56 their date of hire until they are automatically
 57 enrolled in the investment plan or timely elect
 58 enrollment in the pension plan; providing certain

Page 2 of 47

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585-04368-17

20177030__

59 members with a specified time to choose participation
 60 in the pension plan or the investment plan; conforming
 61 provisions to changes made by the act; amending s.
 62 121.591, F.S.; authorizing payment of death benefits
 63 to the surviving spouse or surviving children of a
 64 member in the investment plan; establishing
 65 qualifications and eligibility requirements for
 66 receipt of such benefits; prescribing the method of
 67 calculating the benefit; specifying circumstances
 68 under which benefit payments are terminated; amending
 69 s. 121.5912, F.S.; revising a provision regarding
 70 program qualification under the Internal Revenue Code
 71 and rulemaking authority, to conform to changes made
 72 by the act; amending s. 121.735, F.S.; revising
 73 allocations to fund line-of-duty death benefits for
 74 investment plan members, to conform to changes made by
 75 the act; requiring the Legislature to review specified
 76 cancer research programs by a certain date; revising
 77 employer contribution rates to fund changes made by
 78 the act; providing a directive to the Division of Law
 79 Revision and Information; providing a declaration of
 80 important state interest; providing an effective date.

81

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

83

84 Section 1. Section 112.1816, Florida Statutes, is created
 85 to read:

86 112.1816 Firefighter disability or death from cancer
 87 presumed contracted in the line of duty.-

Page 3 of 47

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585-04368-17

20177030__

88 (1) DEFINITION.-As used in this section, the term
 89 "firefighter" has the same meaning as in s. 112.81.
 90 (2) PRESUMPTION; ELIGIBILITY CONDITIONS.-
 91 (a) Any condition or impairment of the health of a
 92 firefighter employed full time by the state or any municipality,
 93 county, port authority, special tax district, or fire control
 94 district which is caused by multiple myeloma, non-Hodgkin's
 95 lymphoma, prostate cancer, or testicular cancer and results in
 96 total or partial disability or death is presumed to have been
 97 accidental and to have been contracted in the line of duty
 98 unless the contrary is shown by competent evidence. In order to
 99 be entitled to this presumption, the firefighter:
 100 1. Must have successfully passed a physical examination
 101 administered before the individual began service as a
 102 firefighter and which failed to reveal any evidence of such a
 103 health condition;
 104 2. Must have been employed as a firefighter with his or her
 105 current employer for at least 5 continuous years before becoming
 106 totally or partially disabled or before his or her death;
 107 3. Must not have used tobacco products for at least 5 years
 108 before becoming totally or partially disabled or before his or
 109 her death; and
 110 4. Must not have been employed during the preceding 5 years
 111 in any other position that is proven to create a higher risk for
 112 multiple myeloma, non-Hodgkin's lymphoma, prostate cancer, or
 113 testicular cancer. This includes any other employment as a
 114 firefighter at another employing agency within the preceding 5
 115 years.
 116 (b) An employing agency must provide a physical examination

Page 4 of 47

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585-04368-17

20177030__

for a firefighter before he or she begins service or immediately thereafter. Notwithstanding subparagraph (a)1., if the employing agency fails to provide a physical examination before the firefighter begins service, or immediately thereafter, the firefighter is entitled to the presumption, provided that he or she meets the criteria specified in subparagraphs (a)2., (a)3., and (a)4.

(c) The presumption does not apply to benefits payable under or granted in a life insurance or disability insurance policy unless the insurer and insured have negotiated for the additional benefits to be included in the policy contract.

(3) APPLICABILITY.—A firefighter employed on July 1, 2017, is not required to meet the physical examination requirement in subsection (2) in order to be entitled to the presumption set forth in this section.

Section 2. Paragraph (a) of subsection (3) and subsection (5) of section 121.053, Florida Statutes, are amended to read:

121.053 Participation in the Elected Officers' Class for retired members.—

(3) On or after July 1, 2010:

(a) A retiree of a state-administered retirement system who is initially reemployed in elected or appointed for the first time to an elective office in a regularly established position with a covered employer may not reenroll in the Florida Retirement System, except as provided in s. 121.122.

(5) Any renewed member, as described in s. 121.122(1), (3), (4), or (5) ~~subsection (1) or subsection (2)~~, who is not receiving the maximum health insurance subsidy provided in s. 112.363 is entitled to earn additional credit toward the maximum

585-04368-17

20177030__

health insurance subsidy. Any additional subsidy due because of such additional credit may be received only at the time of payment of the second career retirement benefit. The total health insurance subsidy received from initial and renewed membership may not exceed the maximum allowed in s. 112.363.

Section 3. Paragraph (f) of subsection (1) and paragraph (c) of subsection (6) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(f) Effective July 1, 1997:

1. Except as provided in subparagraph 3., an elected state officer eligible for membership in the Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office or within 6 months after this act becomes a law for serving elected state officers, elect to participate in the Senior Management Service Optional Annuity Program, as provided in subsection (6), in lieu of membership in the Senior Management Service Class.

2. Except as provided in subparagraph 3., an elected officer of a local agency employer eligible for membership in the Elected Officers' Class under s. 121.052(2)(d) who elects membership in the Senior Management Service Class under s. 121.052(3)(c) may, within 6 months after assuming office, or within 6 months after this act becomes a law for serving elected

585-04368-17

20177030

officers of a local agency employer, elect to withdraw from the Florida Retirement System, as provided in subparagraph (b)2., in lieu of membership in the Senior Management Service Class.

3. A retiree of a state-administered retirement system who is initially reemployed in a regularly established position on or after July 1, 2010, through June 30, 2017, as an elected official eligible for the Elected Officers' Class may not be enrolled in renewed membership in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program as provided in subsection (6), and may not withdraw from the Florida Retirement System as a renewed member as provided in subparagraph (b)2., as applicable, in lieu of membership in the Senior Management Service Class. Effective July 1, 2017, a retiree of the Senior Management Service Optional Annuity Program who is reemployed in a regularly established position with a covered employer shall be enrolled as a renewed member as provided in s. 121.122.

(6)

(c) *Participation.*—

1. An eligible employee who is employed on or before February 1, 1987, may elect to participate in the optional annuity program in lieu of participating in the Senior Management Service Class. Such election shall ~~must~~ be made in writing and filed with the department and the personnel officer of the employer on or before May 1, 1987. An eligible employee who is employed on or before February 1, 1987, and who fails to make an election to participate in the optional annuity program by May 1, 1987, is ~~shall be~~ deemed to have elected membership in the Senior Management Service Class.

Page 7 of 47

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585-04368-17

20177030

2. Except as provided in subparagraph 6., an employee who becomes eligible to participate in the optional annuity program by reason of initial employment commencing after February 1, 1987, may, within 90 days after the date of commencing employment, elect to participate in the optional annuity program. Such election shall ~~must~~ be made in writing and filed with the personnel officer of the employer. An eligible employee who does not within 90 days after commencing employment elect to participate in the optional annuity program is ~~shall be~~ deemed to have elected membership in the Senior Management Service Class.

3. A person who is appointed to a position in the Senior Management Service Class and who is a member of an existing retirement system or the Special Risk or Special Risk Administrative Support Classes of the Florida Retirement System may elect to remain in such system or class in lieu of participating in the Senior Management Service Class or optional annuity program. Such election shall ~~must~~ be made in writing and filed with the department and the personnel officer of the employer within 90 days after such appointment. An eligible employee who fails to make an election to participate in the existing system, the Special Risk Class of the Florida Retirement System, the Special Risk Administrative Support Class of the Florida Retirement System, or the optional annuity program is ~~shall be~~ deemed to have elected membership in the Senior Management Service Class.

4. Except as provided in subparagraph 5., an employee's election to participate in the optional annuity program is irrevocable if the employee continues to be employed in an

Page 8 of 47

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585-04368-17

20177030

eligible position and continues to meet the eligibility requirements set forth in this paragraph.

5. Effective from July 1, 2002, through September 30, 2002, an active employee in a regularly established position who has elected to participate in the Senior Management Service Optional Annuity Program has one opportunity to choose to move from the Senior Management Service Optional Annuity Program to the Florida Retirement System Pension Plan.

a. The election shall ~~must~~ be made in writing and ~~must be~~ filed with the department and the personnel officer of the employer before October 1, 2002, or, in the case of an active employee who is on a leave of absence on July 1, 2002, within 90 days after the conclusion of the leave of absence. This election is irrevocable.

b. The employee shall receive service credit under the pension plan equal to his or her years of service under the Senior Management Service Optional Annuity Program. The cost for such credit is the amount representing the present value of that employee's accumulated benefit obligation for the affected period of service.

c. The employee shall ~~must~~ transfer the total accumulated employer contributions and earnings on deposit in his or her Senior Management Service Optional Annuity Program account. If the transferred amount is not sufficient to pay the amount due, the employee shall ~~must~~ pay a sum representing the remainder of the amount due. The employee may not retain any employer contributions or earnings from the Senior Management Service Optional Annuity Program account.

6. A retiree of a state-administered retirement system who

585-04368-17

20177030

is initially reemployed on or after July 1, 2010, through June 30, 2017, may not renew membership in the Senior Management Service Optional Annuity Program. Effective July 1, 2017, a retiree of the Senior Management Service Optional Annuity Program who is reemployed in a regularly established position with a covered employer shall be enrolled as a renewed member as provided in s. 121.122.

7. Effective July 1, 2017, the Senior Management Service Optional Annuity Program is closed to new members. A member enrolled in the Senior Management Service Optional Annuity Program before July 1, 2017, may retain his or her membership in the annuity program.

Section 4. Paragraphs (d) and (i) of subsection (7) and paragraph (c) of subsection (9) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(7) DEATH BENEFITS.—

585-04368-17

20177030__

291 (d) Notwithstanding any other provision in this chapter to
 292 the contrary, with the exception of the Deferred Retirement
 293 Option Program, as provided in subsection (13):

294 1. The surviving spouse of any member killed in the line of
 295 duty may receive a monthly pension equal to one-half of the
 296 monthly salary being received by the member at the time of death
 297 for the rest of the surviving spouse's lifetime or, if the
 298 member was vested, such surviving spouse may elect to receive a
 299 benefit as provided in paragraph (b). Benefits provided by this
 300 paragraph shall supersede any other distribution that may have
 301 been provided by the member's designation of beneficiary.

302 2. If the surviving spouse of a member killed in the line
 303 of duty dies, the monthly payments that would have been payable
 304 to such surviving spouse had such surviving spouse lived shall
 305 be paid for the use and benefit of such member's child or
 306 children under 18 years of age and unmarried until the 18th
 307 birthday of the member's youngest child. Beginning July 1, 2016,
 308 such payments may be extended, for the surviving child of a
 309 member in the Special Risk Class at the time he or she was
 310 killed in the line of duty on or after July 1, 2013, until the
 311 25th birthday of any child of the member if the child is
 312 unmarried and enrolled as a full-time student. Beginning July 1,
 313 2017, such payments may be extended, for the surviving child of
 314 a member in the Special Risk Class at the time he or she was
 315 killed in the line of duty on or after July 1, 2002, until the
 316 25th birthday of any child of the member if the child is
 317 unmarried and enrolled as a full-time student.

318 3. If a member killed in the line of duty leaves no
 319 surviving spouse but is survived by a child or children under 18

585-04368-17

20177030__

320 years of age, the benefits provided by subparagraph 1., normally
 321 payable to a surviving spouse, shall be paid for the use and
 322 benefit of such member's child or children under 18 years of age
 323 and unmarried until the 18th birthday of the member's youngest
 324 child. Beginning July 1, 2016, such monthly payments may be
 325 extended, for the surviving child of a member in the Special
 326 Risk Class at the time he or she was killed in the line of duty
 327 on or after July 1, 2013, until the 25th birthday of any child
 328 of the member if the child is unmarried and enrolled as a full-
 329 time student. Beginning July 1, 2017, such monthly payments may
 330 be extended, for the surviving child of a member in the Special
 331 Risk Class at the time he or she was killed in the line of duty
 332 on or after July 1, 2002, until the 25th birthday of any child
 333 of the member if the child is unmarried and enrolled as a full-
 334 time student.

335 4. The surviving spouse of a member whose benefit
 336 terminated because of remarriage shall have the benefit
 337 reinstated beginning July 1, 1993, at an amount that would have
 338 been payable had the benefit not been terminated.

339 (i) ~~Effective July 1, 2016, and~~ Notwithstanding any
 340 provision in this chapter to the contrary, if a member in the
 341 Special Risk Class, other than a participant in the Deferred
 342 Retirement Option Program under subsection (13), is killed in
 343 the line of duty on or after July 1, ~~2002~~ 2013, the following
 344 benefits are payable in addition to the benefits provided in
 345 paragraph (d):

346 1. The surviving spouse may receive a monthly pension equal
 347 to one-half of the monthly salary being received by the member
 348 at the time of the member's death for the rest of the surviving

585-04368-17

20177030

spouse's lifetime or, if the member was vested, such surviving spouse may elect to receive a benefit as provided in paragraph (b). Benefits provided by this paragraph supersede any other distribution that may have been provided by the member's designation of beneficiary.

2. If the surviving spouse dies, the monthly payments that otherwise would have been payable to such surviving spouse shall be paid for the use and benefit of the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Such monthly payments may be extended until the 25th birthday of the member's child if the child is unmarried and enrolled as a full-time student.

3. If the member leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Such monthly payments may be extended until the 25th birthday of any of the member's children if the child is unmarried and enrolled as a full-time student.

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

(c) Any person whose retirement is effective on or after July 1, 2010, or whose participation in the Deferred Retirement Option Program terminates on or after July 1, 2010, who is retired under this chapter, except under the disability retirement provisions of subsection (4) or as provided in s. 121.053, may be reemployed by an employer that participates in a state-administered retirement system and receive retirement

585-04368-17

20177030

benefits and compensation from that employer. However, a person may not be reemployed by an employer participating in the Florida Retirement System before meeting the definition of termination in s. 121.021 and may not receive both a salary from the employer and retirement benefits for 6 calendar months after meeting the definition of termination. However, a DROP participant shall continue employment and receive a salary during the period of participation in the Deferred Retirement Option Program, as provided in subsection (13).

1. The reemployed retiree may not renew membership in the Florida Retirement System, except as provided in s. 121.122.

2. The employer shall pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the Florida Retirement System in addition to the contributions required by s. 121.76.

3. A retiree initially reemployed in violation of this paragraph and an employer that employs or appoints such person are jointly and severally liable for reimbursement of any retirement benefits paid to the retirement trust fund from which the benefits were paid, including the Florida Retirement System Trust Fund and the Public Employee Optional Retirement Program Trust Fund, as appropriate. The employer must have a written statement from the employee that he or she is not retired from a state-administered retirement system. Retirement benefits shall remain suspended until repayment is made. Benefits suspended beyond the end of the retiree's 6-month reemployment limitation period shall apply toward the repayment of benefits received in violation of this paragraph.

585-04368-17

20177030__

Section 5. Subsection (2) of section 121.122, Florida Statutes, is amended, and subsections (3), (4), and (5) are added to that section, to read:

121.122 Renewed membership in system.—

(2) Except as otherwise provided in subsections (3), (4), and (5), a retiree of a state-administered retirement system who is initially reemployed in a regularly established position on or after July 1, 2010, may not be enrolled as a renewed member.

(3) A retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed with a covered employer in a regularly established position on or after July 1, 2017, shall be enrolled as a renewed member of the investment plan unless employed in a position eligible for participation in the State University System Optional Retirement Program as provided in subsection (4) or the State Community College System Optional Retirement Program as provided in subsection (5). The renewed member must satisfy the vesting requirements and other provisions of this chapter.

(a) A renewed member of the investment plan shall be enrolled in one of the following membership classes:

1. In the Regular Class, if the position does not meet the requirements for membership under s. 121.0515, s. 121.053, or s. 121.055.

2. In the Special Risk Class, if the position meets the requirements of s. 121.0515.

3. In the Elected Officers' Class, if the position meets the requirements of s. 121.053.

585-04368-17

20177030__

4. In the Senior Management Service Class, if the position meets the requirements of s. 121.055.

(b) Creditable service, including credit toward the retiree health insurance subsidy provided in s. 112.363, does not accrue for a renewed member's employment in a regularly established position with a covered employer from July 1, 2010, through June 30, 2017.

(c) Employer and employee contributions, interest, earnings, or any other funds may not be paid into a renewed member's investment plan account for any employment in a regularly established position with a covered employer on or after July 1, 2010, through June 30, 2017, by the renewed member or the employer on behalf of the renewed member.

(d) To be eligible to receive a retirement benefit, the renewed member must satisfy the vesting requirements in s. 121.4501(6).

(e) The renewed member is ineligible to receive disability benefits as provided in s. 121.091(4) or s. 121.591(2).

(f) The renewed member is subject to the limitations on reemployment after retirement provided in s. 121.091(9), as applicable.

(g) The renewed member must satisfy the requirements for termination from employment provided in s. 121.021(39).

(h) Upon renewed membership or reemployment of a retiree, the employer and the renewed member shall pay the applicable employer and employee contributions required under ss. 112.363, 121.71, 121.74, and 121.76. The contributions are payable only for employment and salary earned in a regularly established position with a covered employer on or after July 1, 2017. The

585-04368-17 20177030

employer and employee contributions shall be transferred to the investment plan and placed in a default fund as designated by the state board. The renewed member may move the contributions once an account is activated in the investment plan.

(i) A renewed member who earns creditable service under the investment plan and who is not receiving the maximum health insurance subsidy provided in s. 112.363 is entitled to earn additional credit toward the subsidy. Such credit may be earned only for employment in a regularly established position with a covered employer on or after July 1, 2017. Any additional subsidy due because of additional credit may be received only at the time of paying the second career retirement benefit. The total health insurance subsidy received by a retiree receiving benefits from initial and renewed membership may not exceed the maximum allowed under s. 112.363.

(j) Notwithstanding s. 121.4501(4)(f), the renewed member is not eligible to elect membership in the pension plan.

(4) A retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed on or after July 1, 2017, in a regularly established position eligible for participation in the State University System Optional Retirement Program shall become a renewed member of the optional retirement program. The renewed member must satisfy the vesting requirements and other provisions of this chapter. Once enrolled, a renewed member remains enrolled in the optional retirement program while employed in an eligible position for the optional retirement program. If employment in a different

585-04368-17 20177030

covered position results in the renewed member's enrollment in the investment plan, the renewed member is no longer eligible to participate in the optional retirement program unless employed in a mandatory position under s. 121.35.

(a) The renewed member is subject to the limitations on reemployment after retirement provided in s. 121.091(9), as applicable.

(b) The renewed member must satisfy the requirements for termination from employment provided in s. 121.021(39).

(c) Upon renewed membership or reemployment of a retiree, the employer and the renewed member shall pay the applicable employer and employee contributions required under s. 121.35.

(d) Employer and employee contributions, interest, earnings, or any other funds may not be paid into a renewed member's optional retirement program account for any employment in a regularly established position with a covered employer on or after July 1, 2010, through June 30, 2017, by the renewed member or the employer on behalf of the renewed member.

(e) Notwithstanding s. 121.4501(4)(f), the renewed member is not eligible to elect membership in the pension plan.

(5) A retiree of the investment plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, or the State Community College System Optional Retirement Program who is reemployed on or after July 1, 2017, in a regularly established position eligible for participation in the State Community College System Optional Retirement Program shall become a renewed member of the optional retirement program. The renewed member must satisfy the eligibility requirements of this chapter and s. 1012.875 for the

585-04368-17 20177030

523 optional retirement program. Once enrolled, a renewed member
 524 remains enrolled in the optional retirement program while
 525 employed in an eligible position for the optional retirement
 526 program. If employment in a different covered position results
 527 in the renewed member's enrollment in the investment plan, the
 528 renewed member is no longer eligible to participate in the
 529 optional retirement program.

530 (a) The renewed member is subject to the limitations on
 531 reemployment after retirement provided in s. 121.091(9), as
 532 applicable.

533 (b) The renewed member must satisfy the requirements for
 534 termination from employment provided in s. 121.021(39).

535 (c) Upon renewed membership or reemployment of a retiree,
 536 the employer and the renewed member shall pay the applicable
 537 employer and employee contributions required under ss.
 538 121.051(2)(c) and 1012.875.

539 (d) Employer and employee contributions, interest,
 540 earnings, or any other funds may not be paid into a renewed
 541 member's optional retirement program account for any employment
 542 in a regularly established position with a covered employer on
 543 or after July 1, 2010, through June 30, 2017, by the renewed
 544 member or the employer on behalf of the renewed member.

545 (e) Notwithstanding s. 121.4501(4)(f), the renewed member
 546 is not eligible to elect membership in the pension plan.

547 Section 6. Paragraphs (e) and (i) of subsection (2),
 548 paragraph (b) of subsection (3), subsection (4), paragraph (c)
 549 of subsection (5), and paragraphs (a) and (h) of subsection (10)
 550 of section 121.4501, Florida Statutes, are amended to read:

551 121.4501 Florida Retirement System Investment Plan.—

585-04368-17 20177030

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

553 (e) "Eligible employee" means an officer or employee, as
 554 defined in s. 121.021, who:

555 1. Is a member of, or is eligible for membership in, the
 556 Florida Retirement System, including any renewed member of the
 557 Florida Retirement System initially enrolled before July 1,
 558 2010; ~~or~~

559 2. Participates in, or is eligible to participate in, the
 560 Senior Management Service Optional Annuity Program as
 561 established under s. 121.055(6), the State Community College
 562 System Optional Retirement Program as established under s.
 563 121.051(2)(c), or the State University System Optional
 564 Retirement Program established under s. 121.35; or

565 3. Is a retired member of the investment plan, the State
 566 University System Optional Retirement Program, the Senior
 567 Management Service Optional Annuity Program, or the State
 568 Community College System Optional Retirement Program who is
 569 reemployed in a regularly established position on or after July
 570 1, 2017, and enrolled as a renewed member as provided in s.
 571 121.122.

572 The term does not include any member participating in the
 573 Deferred Retirement Option Program established under s.
 574 121.091(13), a retiree of the pension plan who is reemployed in
 575 a regularly established position on or after July 1, 2010, a
 576 retiree of a state-administered retirement system initially
 577 reemployed in a regularly established position on or after July
 578 1, 2010, through June 30, 2017, or a mandatory participant of
 579 the State University System Optional Retirement Program

585-04368-17

20177030__

established under s. 121.35.

(i) "Member" or "employee" means an eligible employee who enrolls in, or who defaults into, the investment plan as provided in subsection (4), a terminated Deferred Retirement Option Program member as described in subsection (21), or a beneficiary or alternate payee of a member or employee.

(3) RETIREMENT SERVICE CREDIT; TRANSFER OF BENEFITS.—

(b) Notwithstanding paragraph (a), an eligible employee who elects to participate in, or who defaults into, the investment plan and establishes one or more individual member accounts may elect to transfer to the investment plan a sum representing the present value of the employee's accumulated benefit obligation under the pension plan, except as provided in paragraph (4) (b). Upon transfer, all service credit earned under the pension plan is nullified for purposes of entitlement to a future benefit under the pension plan. A member may not transfer the accumulated benefit obligation balance from the pension plan after the time period for enrolling in the investment plan has expired.

1. For purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated creditable service and estimated average final compensation under the pension plan, subject to recomputation under subparagraph 2. For state employees, initial estimates shall be based upon creditable service and average final compensation as of midnight on June 30, 2002; for district school board employees, initial estimates shall be based upon creditable service and average final compensation as of midnight on September 30, 2002; and for local government employees,

585-04368-17

20177030__

initial estimates shall be based upon creditable service and average final compensation as of midnight on December 31, 2002. The dates specified are the "estimate date" for these employees. The actuarial present value of the employee's accumulated benefit obligation shall be based on the following:

a. The discount rate and other relevant actuarial assumptions used to value the Florida Retirement System Trust Fund at the time the amount to be transferred is determined, consistent with the factors provided in sub-subparagraphs b. and c.

b. A benefit commencement age, based on the member's estimated creditable service as of the estimate date.

c. Except as provided under sub-subparagraph d., for a member initially enrolled:

(I) Before July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 62; or

(B) The age the member would attain if the member completed 30 years of service with an employer, assuming the member worked continuously from the estimate date, and disregarding any vesting requirement that would otherwise apply under the pension plan.

(II) On or after July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 65; or

(B) The age the member would attain if the member completed 33 years of service with an employer, assuming the member worked

585-04368-17

20177030__

639 continuously from the estimate date, and disregarding any
 640 vesting requirement that would otherwise apply under the pension
 641 plan.

642 d. For members of the Special Risk Class and for members of
 643 the Special Risk Administrative Support Class entitled to retain
 644 the special risk normal retirement date:

645 (I) Initially enrolled before July 1, 2011, the benefit
 646 commencement age is the younger of the following, but may not be
 647 younger than the member's age as of the estimate date:

648 (A) Age 55; or

649 (B) The age the member would attain if the member completed
 650 25 years of service with an employer, assuming the member worked
 651 continuously from the estimate date, and disregarding any
 652 vesting requirement that would otherwise apply under the pension
 653 plan.

654 (II) Initially enrolled on or after July 1, 2011, the
 655 benefit commencement age is the younger of the following, but
 656 may not be younger than the member's age as of the estimate
 657 date:

658 (A) Age 60; or

659 (B) The age the member would attain if the member completed
 660 30 years of service with an employer, assuming the member worked
 661 continuously from the estimate date, and disregarding any
 662 vesting requirement that would otherwise apply under the pension
 663 plan.

664 e. The calculation must disregard vesting requirements and
 665 early retirement reduction factors that would otherwise apply
 666 under the pension plan.

667 2. For each member who elects to transfer moneys from the

585-04368-17

20177030__

668 pension plan to his or her account in the investment plan, the
 669 division shall recompute the amount transferred under
 670 subparagraph 1. within 60 days after the actual transfer of
 671 funds based upon the member's actual creditable service and
 672 actual final average compensation as of the initial date of
 673 participation in the investment plan. If the recomputed amount
 674 differs from the amount transferred by \$10 or more, the division
 675 shall:

676 a. Transfer, or cause to be transferred, from the Florida
 677 Retirement System Trust Fund to the member's account the excess,
 678 if any, of the recomputed amount over the previously transferred
 679 amount together with interest from the initial date of transfer
 680 to the date of transfer under this subparagraph, based upon the
 681 effective annual interest equal to the assumed return on the
 682 actuarial investment which was used in the most recent actuarial
 683 valuation of the system, compounded annually.

684 b. Transfer, or cause to be transferred, from the member's
 685 account to the Florida Retirement System Trust Fund the excess,
 686 if any, of the previously transferred amount over the recomputed
 687 amount, together with interest from the initial date of transfer
 688 to the date of transfer under this subparagraph, based upon 6
 689 percent effective annual interest, compounded annually, pro rata
 690 based on the member's allocation plan.

691 3. If contribution adjustments are made as a result of
 692 employer errors or corrections, including plan corrections,
 693 following recomputation of the amount transferred under
 694 subparagraph 1., the member is entitled to the additional
 695 contributions or is responsible for returning any excess
 696 contributions resulting from the correction. However, a any

585-04368-17 20177030
 697 return of such erroneous excess pretax contribution by the plan
 698 must be made within the period allowed by the Internal Revenue
 699 Service. The present value of the member's accumulated benefit
 700 obligation ~~may shall~~ not be recalculated.

701 4. As directed by the member, the state board shall
 702 transfer or cause to be transferred the appropriate amounts to
 703 the designated accounts within 30 days after the effective date
 704 of the member's participation in the investment plan unless the
 705 major financial markets for securities available for a transfer
 706 are seriously disrupted by an unforeseen event that causes the
 707 suspension of trading on a ~~any~~ national securities exchange in
 708 the country where the securities were issued. In that event, the
 709 30-day period may be extended by a resolution of the state
 710 board. Transfers are not commissionable or subject to other fees
 711 and may be in the form of securities or cash, as determined by
 712 the state board. Such securities are valued as of the date of
 713 receipt in the member's account.

714 5. If the state board or the division receives notification
 715 from the United States Internal Revenue Service that this
 716 paragraph or any portion of this paragraph will cause the
 717 retirement system, or a portion thereof, to be disqualified for
 718 tax purposes under the Internal Revenue Code, the portion that
 719 will cause the disqualification does not apply. Upon such
 720 notice, the state board and the division shall notify the
 721 presiding officers of the Legislature.

722 (4) PARTICIPATION; ENROLLMENT.—

723 (a)1. Effective June 1, 2002, through February 28, 2003, a
 724 90-day election period was provided to each eligible employee
 725 participating in the Florida Retirement System, preceded by a

585-04368-17 20177030
 726 90-day education period, permitting each eligible employee to
 727 elect membership in the investment plan. An employee who failed
 728 to elect the investment plan during the election period remained
 729 in the pension plan. An eligible employee who was employed in a
 730 regularly established position during the election period was
 731 granted the option to make one subsequent election, as provided
 732 in paragraph (f). With respect to an eligible employee who did
 733 not participate in the initial election period or who is
 734 initially employed in a regularly established position after the
 735 close of the initial election period but before January 1, 2018,
 736 on June 1, 2002, by a state employer.

737 a. Any such employee may elect to participate in the
 738 investment plan in lieu of retaining his or her membership in
 739 the pension plan. The election must be made in writing or by
 740 electronic means and must be filed with the third-party
 741 administrator by August 31, 2002, or, in the case of an active
 742 employee who is on a leave of absence on April 1, 2002, by the
 743 last business day of the 5th month following the month the leave
 744 of absence concludes. This election is irrevocable, except as
 745 provided in paragraph (g). Upon making such election, the
 746 employee shall be enrolled as a member of the investment plan,
 747 the employee's membership in the Florida Retirement System is
 748 governed by the provisions of this part, and the employee's
 749 membership in the pension plan terminates. The employee's
 750 enrollment in the investment plan is effective the first day of
 751 the month for which a full month's employer contribution is made
 752 to the investment plan.

753 b. Any such employee who fails to elect to participate in
 754 the investment plan within the prescribed time period is deemed

585-04368-17

20177030

to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment plan is forfeited.

~~2. With respect to employees who become eligible to participate in the investment plan by reason of employment in a regularly established position with a state employer commencing after April 1, 2002:~~

~~a. Any~~ such employee shall, by default, be enrolled in the pension plan at the commencement of employment, and may, by the last business day of the 5th month following the employee's month of hire, elect to participate in the investment plan. The employee's election must be made in writing or by electronic means and must be filed with the third-party administrator. The election to participate in the investment plan is irrevocable, except as provided in paragraph (f) ~~(g)~~.

~~a.b.~~ If the employee files such election within the prescribed time period, enrollment in the investment plan is effective on the first day of employment. The retirement contributions paid through the month of the employee plan change shall be transferred to the investment program, and, effective the first day of the next month, the employer and employee must pay the applicable contributions based on the employee membership class in the program.

~~b.e.~~ An employee who fails to elect to participate in the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment plan is forfeited.

~~2.3.~~ With respect to employees who become eligible to

585-04368-17

20177030

participate in the investment plan pursuant to s.

121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to participate in the investment plan in lieu of retaining his or her membership in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program. The election must be made in writing or by electronic means and must be filed with the third-party administrator. This election is irrevocable, except as provided in paragraph (f) ~~(g)~~. Upon making such election, the employee shall be enrolled as a member in the investment plan, the employee's membership in the Florida Retirement System is governed by the provisions of this part, and the employee's participation in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program terminates. The employee's enrollment in the investment plan is effective on the first day of the month for which a full month's employer and employee contribution is made to the investment plan.

(b)1. With respect to employees who become eligible to participate in the investment plan by reason of employment in a regularly established position commencing on or after January 1, 2018, or who did not complete an election window before January 1, 2018, any such employee shall be enrolled in the pension plan at the commencement of employment and may, by the last business day of the fifth month following the employee's month of hire, elect to participate in the pension plan or the investment plan. Eligible employees may make a plan election only if they are earning service credit in an employer-employee relationship consistent with s. 121.021(17)(b), excluding leaves of absence

585-04368-17

20177030__

without pay.

2. The employee's election must be made in writing or by electronic means and must be filed with the third-party administrator. The election to participate in the pension plan or investment plan is irrevocable, except as provided in paragraph (f).

3. If the employee fails to make an election of the pension plan or investment plan within 5 months following the month of hire, the employee is deemed to have elected the investment plan and shall default into the investment plan retroactively to the employee's date of employment. The employee's option to participate in the pension plan is forfeited, except as provided in paragraph (f).

4. The amount of the employee and employer contributions paid through the date of default to the investment plan shall be transferred to the investment plan and shall be placed in a default fund as designated by the State Board of Administration. The employee may move the contributions once an account is activated in the investment plan.

5. Effective the first day of the month after an eligible employee makes a plan election of the pension plan or investment plan, or the first day of the month after default to the investment plan, the employee and employer shall pay the applicable contributions based on the employee membership class in the program.

4. For purposes of this paragraph, "state employer" means any agency, board, branch, commission, community college, department, institution, institution of higher education, or water management district of the state, which participates in

585-04368-17

20177030__

~~the Florida Retirement System for the benefit of certain employees.~~

~~(b)1. With respect to an eligible employee who is employed in a regularly established position on September 1, 2002, by a district school board employer.~~

~~a. Any such employee may elect to participate in the investment plan in lieu of retaining his or her membership in the pension plan. The election must be made in writing or by electronic means and must be filed with the third-party administrator by November 30, or, in the case of an active employee who is on a leave of absence on July 1, 2002, by the last business day of the 5th month following the month the leave of absence concludes. This election is irrevocable, except as provided in paragraph (g). Upon making such election, the employee shall be enrolled as a member of the investment plan, the employee's membership in the Florida Retirement System is governed by the provisions of this part, and the employee's membership in the pension plan terminates. The employee's enrollment in the investment plan is effective the first day of the month for which a full month's employer contribution is made to the investment program.~~

~~b. Any such employee who fails to elect to participate in the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment plan is forfeited.~~

~~2. With respect to employees who become eligible to participate in the investment plan by reason of employment in a regularly established position with a district school board~~

585-04368-17

20177030

871 ~~employer commencing after July 1, 2002:~~

872 ~~a. Any such employee shall, by default, be enrolled in the~~
 873 ~~pension plan at the commencement of employment, and may, by the~~
 874 ~~last business day of the 5th month following the employee's~~
 875 ~~month of hire, elect to participate in the investment plan. The~~
 876 ~~employee's election must be made in writing or by electronic~~
 877 ~~means and must be filed with the third-party administrator. The~~
 878 ~~election to participate in the investment plan is irrevocable,~~
 879 ~~except as provided in paragraph (g).~~

880 ~~b. If the employee files such election within the~~
 881 ~~prescribed time period, enrollment in the investment plan is~~
 882 ~~effective on the first day of employment. The employer~~
 883 ~~retirement contributions paid through the month of the employee~~
 884 ~~plan change shall be transferred to the investment plan, and,~~
 885 ~~effective the first day of the next month, the employer shall~~
 886 ~~pay the applicable contributions based on the employee~~
 887 ~~membership class in the investment plan.~~

888 ~~c. Any such employee who fails to elect to participate in~~
 889 ~~the investment plan within the prescribed time period is deemed~~
 890 ~~to have elected to retain membership in the pension plan, and~~
 891 ~~the employee's option to elect to participate in the investment~~
 892 ~~plan is forfeited.~~

893 ~~3. For purposes of this paragraph, "district school board~~
 894 ~~employer" means any district school board that participates in~~
 895 ~~the Florida Retirement System for the benefit of certain~~
 896 ~~employees, or a charter school or charter technical career~~
 897 ~~center that participates in the Florida Retirement System as~~
 898 ~~provided in s. 121.051(2)(d).~~

899 ~~(c)1. With respect to an eligible employee who is employed~~

585-04368-17

20177030

900 ~~in a regularly established position on December 1, 2002, by a~~
 901 ~~local employer:~~

902 ~~a. Any such employee may elect to participate in the~~
 903 ~~investment plan in lieu of retaining his or her membership in~~
 904 ~~the pension plan. The election must be made in writing or by~~
 905 ~~electronic means and must be filed with the third-party~~
 906 ~~administrator by February 28, 2003, or, in the case of an active~~
 907 ~~employee who is on a leave of absence on October 1, 2002, by the~~
 908 ~~last business day of the 5th month following the month the leave~~
 909 ~~of absence concludes. This election is irrevocable, except as~~
 910 ~~provided in paragraph (g). Upon making such election, the~~
 911 ~~employee shall be enrolled as a participant of the investment~~
 912 ~~plan, the employee's membership in the Florida Retirement System~~
 913 ~~is governed by the provisions of this part, and the employee's~~
 914 ~~membership in the pension plan terminates. The employee's~~
 915 ~~enrollment in the investment plan is effective the first day of~~
 916 ~~the month for which a full month's employer contribution is made~~
 917 ~~to the investment plan.~~

918 ~~b. Any such employee who fails to elect to participate in~~
 919 ~~the investment plan within the prescribed time period is deemed~~
 920 ~~to have elected to retain membership in the pension plan, and~~
 921 ~~the employee's option to elect to participate in the investment~~
 922 ~~plan is forfeited.~~

923 ~~2. With respect to employees who become eligible to~~
 924 ~~participate in the investment plan by reason of employment in a~~
 925 ~~regularly established position with a local employer commencing~~
 926 ~~after October 1, 2002:~~

927 ~~a. Any such employee shall, by default, be enrolled in the~~
 928 ~~pension plan at the commencement of employment, and may, by the~~

585-04368-17

20177030

last business day of the 5th month following the employee's month of hire, elect to participate in the investment plan. The employee's election must be made in writing or by electronic means and must be filed with the third-party administrator. The election to participate in the investment plan is irrevocable, except as provided in paragraph (g).

b. If the employee files such election within the prescribed time period, enrollment in the investment plan is effective on the first day of employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the investment plan, and, effective the first day of the next month, the employer shall pay the applicable contributions based on the employee membership class in the investment plan.

c. Any such employee who fails to elect to participate in the investment plan within the prescribed time period is deemed to have elected to retain membership in the pension plan, and the employee's option to elect to participate in the investment plan is forfeited.

3. For purposes of this paragraph, "local employer" means any employer not included in paragraph (a) or paragraph (b).

(c)(d) Contributions available for self-direction by a member who has not selected one or more specific investment products shall be allocated as prescribed by the state board. The third-party administrator shall notify the member at least quarterly that the member should take an affirmative action to make an asset allocation among the investment products.

(d)(e) On or after July 1, 2011, a member of the pension plan who obtains a refund of employee contributions retains his

585-04368-17

20177030

or her prior plan choice upon return to employment in a regularly established position with a participating employer.

(e)1.(f) A member of the investment plan who takes a distribution of any contributions from his or her investment plan account is considered a retiree. A retiree who is initially reemployed in a regularly established position on or after July 1, 2010, through June 30, 2017, is not eligible ~~for to be~~ enrolled in renewed membership, except as provided in s. 121.122.

2. A retiree who is reemployed on or after July 1, 2017, shall be enrolled as a renewed member as provided in s. 121.122.

(f)(g) After the period during which an eligible employee had the choice to elect the pension plan or the investment plan, or the month following the receipt of the eligible employee's plan election, if sooner, the employee shall have one opportunity, at the employee's discretion, to choose to move from the pension plan to the investment plan or from the investment plan to the pension plan. Eligible employees may elect to move between plans only if they are earning service credit in an employer-employee relationship consistent with s. 121.021(17)(b), excluding leaves of absence without pay. Effective July 1, 2005, such elections are effective on the first day of the month following the receipt of the election by the third-party administrator and are not subject to the requirements regarding an employer-employee relationship or receipt of contributions for the eligible employee in the effective month, except when the election is received by the third-party administrator. This paragraph is contingent upon approval by the Internal Revenue Service.

585-04368-17

20177030__

1. If the employee chooses to move to the investment plan, the provisions of subsection (3) govern the transfer.

2. If the employee chooses to move to the pension plan, the employee must transfer from his or her investment plan account, and from other employee moneys as necessary, a sum representing the present value of that employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan and service in the investment plan. Benefit commencement occurs on the first date the employee is eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the pension plan liabilities in the most recent actuarial valuation. For any employee who, at the time of the second election, already maintains an accrued benefit amount in the pension plan, the then-present value of the accrued benefit is deemed part of the required transfer amount. The division must ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary. A refund of any employee contributions or additional member payments made which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the investment plan is not permitted.

3. Notwithstanding subparagraph 2., an employee who chooses to move to the pension plan and who became eligible to participate in the investment plan by reason of employment in a regularly established position with a state employer after June 1, 2002; a district school board employer after September 1, 2002; or a local employer after December 1, 2002, must transfer

585-04368-17

20177030__

from his or her investment plan account, and from other employee moneys as necessary, a sum representing the employee's actuarial accrued liability. A refund of any employee contributions or additional ~~member participant~~ payments made which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the investment plan is not permitted.

4. An employee's ability to transfer from the pension plan to the investment plan pursuant to paragraphs (a) and (b) ~~(a)-(d)~~, and the ability of a current employee to have an option to later transfer back into the pension plan under subparagraph 2., shall be deemed a significant system amendment. Pursuant to s. 121.031(4), any resulting unfunded liability arising from actual original transfers from the pension plan to the investment plan must be amortized within 30 plan years as a separate unfunded actuarial base independent of the reserve stabilization mechanism defined in s. 121.031(3)(f). For the first 25 years, a direct amortization payment may not be calculated for this base. During this 25-year period, the separate base shall be used to offset the impact of employees exercising their second program election under this paragraph. The actuarial funded status of the pension plan will not be affected by such second program elections in any significant manner, after due recognition of the separate unfunded actuarial base. Following the initial 25-year period, any remaining balance of the original separate base shall be amortized over the remaining 5 years of the required 30-year amortization period.

5. If the employee chooses to transfer from the investment plan to the pension plan and retains an excess account balance

585-04368-17

20177030

in the investment plan after satisfying the buy-in requirements under this paragraph, the excess may not be distributed until the member retires from the pension plan. The excess account balance may be rolled over to the pension plan and used to purchase service credit or upgrade creditable service in the pension plan.

(5) CONTRIBUTIONS.—

(c) The state board, acting as plan fiduciary, must ensure that all plan assets are held in a trust, pursuant to s. 401 of the Internal Revenue Code. The fiduciary must ensure that such contributions are allocated as follows:

1. The employer and employee contribution portion earmarked for member accounts shall be used to purchase interests in the appropriate investment vehicles as specified by the member, or in accordance with paragraph (4) (c) ~~(4) (d)~~.

2. The employer contribution portion earmarked for administrative and educational expenses shall be transferred to the state board's Administrative Trust Fund.

3. The employer contribution portion earmarked for disability benefits and line-of-duty death benefits shall be transferred to the Florida Retirement System Trust Fund.

(10) EDUCATION COMPONENT.—

(a) The state board, in coordination with the department, shall provide for an education component for eligible employees ~~system members~~ in a manner consistent with ~~the provisions of this subsection~~ section. ~~The education component must be available to eligible employees at least 90 days prior to the beginning date of the election period for the employees of the respective types of employers.~~

585-04368-17

20177030

~~(h) Pursuant to subsection (8), all Florida Retirement System employers have an obligation to regularly communicate the existence of the two Florida Retirement System plans and the plan choice in the natural course of administering their personnel functions, using the educational materials supplied by the state board and the Department of Management Services.~~

Section 7. Subsection (4) of section 121.591, Florida Statutes, is amended to read:

121.591 Payment of benefits.—Benefits may not be paid under the Florida Retirement System Investment Plan unless the member has terminated employment as provided in s. 121.021(39)(a) or is deceased and a proper application has been filed as prescribed by the state board or the department. Benefits, including employee contributions, are not payable under the investment plan for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence, or any other reason except a requested distribution for retirement, a mandatory de minimis distribution authorized by the administrator, or a required minimum distribution provided pursuant to the Internal Revenue Code. The state board or department, as appropriate, may cancel an application for retirement benefits if the member or beneficiary fails to timely provide the information and documents required by this chapter and the rules of the state board and department. In accordance with their respective responsibilities, the state board and the department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application if the

585-04368-17

20177030

1103 required information or documents are not received. The state
 1104 board and the department, as appropriate, are authorized to cash
 1105 out a de minimis account of a member who has been terminated
 1106 from Florida Retirement System covered employment for a minimum
 1107 of 6 calendar months. A de minimis account is an account
 1108 containing employer and employee contributions and accumulated
 1109 earnings of not more than \$5,000 made under the provisions of
 1110 this chapter. Such cash-out must be a complete lump-sum
 1111 liquidation of the account balance, subject to the provisions of
 1112 the Internal Revenue Code, or a lump-sum direct rollover
 1113 distribution paid directly to the custodian of an eligible
 1114 retirement plan, as defined by the Internal Revenue Code, on
 1115 behalf of the member. Any nonvested accumulations and associated
 1116 service credit, including amounts transferred to the suspense
 1117 account of the Florida Retirement System Investment Plan Trust
 1118 Fund authorized under s. 121.4501(6), shall be forfeited upon
 1119 payment of any vested benefit to a member or beneficiary, except
 1120 for de minimis distributions or minimum required distributions
 1121 as provided under this section. If any financial instrument
 1122 issued for the payment of retirement benefits under this section
 1123 is not presented for payment within 180 days after the last day
 1124 of the month in which it was originally issued, the third-party
 1125 administrator or other duly authorized agent of the state board
 1126 shall cancel the instrument and credit the amount of the
 1127 instrument to the suspense account of the Florida Retirement
 1128 System Investment Plan Trust Fund authorized under s.
 1129 121.4501(6). Any amounts transferred to the suspense account are
 1130 payable upon a proper application, not to include earnings
 1131 thereon, as provided in this section, within 10 years after the

585-04368-17

20177030

1132 last day of the month in which the instrument was originally
 1133 issued, after which time such amounts and any earnings
 1134 attributable to employer contributions shall be forfeited. Any
 1135 forfeited amounts are assets of the trust fund and are not
 1136 subject to chapter 717.

1137 (4) LINE-OF-DUTY DEATH BENEFITS FOR INVESTMENT PLAN SPECIAL
 1138 ~~RISK-CLASS MEMBERS~~.—Benefits are provided under this subsection
 1139 to the spouse and child or children of members in the investment
 1140 plan Special Risk Class when such members are killed in the line
 1141 of duty and are payable in lieu of the benefits that would
 1142 otherwise be payable under subsection (1) or subsection (3).
 1143 Benefits provided by this subsection supersede any other
 1144 distribution that may have been provided by the member's
 1145 designation of beneficiary. Such benefits must be funded from
 1146 employer contributions made under s. 121.571, transferred
 1147 employee contributions and funds accumulated pursuant to
 1148 paragraph (a), and interest and earnings thereon.

1149 (a) *Transfer of funds*.—To qualify to receive monthly
 1150 benefits under this subsection:

1151 1. All moneys accumulated in the member's account,
 1152 including vested and nonvested accumulations as described in s.
 1153 121.4501(6), must be transferred from such individual accounts
 1154 to the division for deposit in the survivor benefit account of
 1155 the Florida Retirement System Trust Fund. Moneys in the survivor
 1156 benefit account must be accounted for separately. Earnings must
 1157 be credited on an annual basis for amounts held in the survivor
 1158 benefit account of the Florida Retirement System Trust Fund
 1159 based on actual earnings of the trust fund.

1160 2. If the member has retained retirement credit earned

585-04368-17

20177030__

under the pension plan as provided in s. 121.4501(3), a sum representing the actuarial present value of such credit within the Florida Retirement System Trust Fund shall be transferred by the division from the pension plan to the survivor benefit retirement program as implemented under this subsection and shall be deposited in the survivor benefit account of the trust fund.

(b) *Survivor retirement; entitlement.*—An investment plan member who is ~~in the Special Risk Class at the time the member is~~ killed in the line of duty on or after July 1, 2002 ~~2013~~, regardless of length of creditable service, may have survivor benefits paid as provided in s. 121.091(7)(d) and (i) to:

1. The surviving spouse for the spouse's lifetime; or

2. If there is no surviving spouse or the surviving spouse dies, the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Such payments may be extended until the 25th birthday of any child of the member if the child is unmarried and enrolled as a full-time student as provided in s. 121.091(7)(d) and (i).

(c) *Survivor benefit retirement effective date.*—

1. The effective retirement date for the surviving spouse or eligible child of a Special Risk Class member who is killed in the line of duty is:

a.1. The first day of the month following the member's death if the member dies on or after July 1, 2016.

b.2. July 1, 2016, for a member of the Special Risk Class when killed in the line of duty on or after July 1, 2013, but before July 1, 2016, if the application is received before July 1, 2016; or the first day of the month following the receipt of

585-04368-17

20177030__

such application.

2. Except as provided in subparagraph 1., the effective retirement date for the surviving spouse or eligible child of an investment plan member who is killed in the line of duty is:

a. The first day of the month following the member's death if the member dies on or after July 1, 2017.

b. July 1, 2017, if the member is killed in the line of duty on or after July 1, 2002, but before July 1, 2017, if the application is received before July 1, 2017; or the first day of the month following the receipt of such application.

If the investment plan account balance has already been paid out to the surviving spouse or the eligible unmarried dependent child or children, the benefit payable shall be actuarially reduced by the amount of the payout.

(d) *Line-of-duty death benefit.*—

1. The following individuals are eligible to receive a retirement benefit under s. 121.091(7)(d) and (i) if the member's account balance is surrendered and an application is received and approved:

a. The surviving spouse.

b. If there is no surviving spouse or the surviving spouse dies, the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child, or until the 25th birthday of the member's child if the child is unmarried and enrolled as a full-time student.

2. Such surviving spouse or such child or children shall receive a monthly survivor benefit that begins accruing on the first day of the month of survivor benefit retirement, as

585-04368-17

20177030__

approved by the division, and is payable on the last day of that month and each month thereafter during the surviving spouse's lifetime or on behalf of the unmarried children of the member until the 18th birthday of the youngest child, or until the 25th birthday of any of the member's unmarried children who are enrolled as full-time students. Survivor benefits must be paid out of the survivor benefit account of the Florida Retirement System Trust Fund established under this subsection.

If the investment plan account balance has already been paid out to the surviving spouse or the eligible unmarried dependent child or children, the benefit payable shall be actuarially reduced by the amount of the payout.

(e) *Computation of survivor benefit retirement benefit.*—The amount of each monthly payment must be calculated as provided under s. 121.091(7)(d) and (i).

(f) *Death of the surviving spouse or children.*—

1. Upon the death of a surviving spouse, the monthly benefits shall be paid through the last day of the month of death and shall terminate or be paid on behalf of the unmarried child or children until the 18th birthday of the youngest child, or the 25th birthday of any of the member's unmarried children who are enrolled as full-time students.

2. If the surviving spouse dies and the benefits are being paid on behalf of the member's unmarried children as provided in subparagraph 1., benefits shall be paid through the last day of the month until the later of the month the youngest child reaches his or her 18th birthday, the month of the 25th birthday of any of the member's unmarried children enrolled as full-time

585-04368-17

20177030__

students, or the month of the death of the youngest child.

Section 8. Section 121.5912, Florida Statutes, is amended to read:

121.5912 Survivor benefit retirement program; qualified status; rulemaking authority.—It is the intent of the Legislature that the survivor benefit retirement program for ~~Special Risk Class~~ members of the Florida Retirement System Investment Plan meet all applicable requirements for a qualified plan. If the state board or the division receives notification from the Internal Revenue Service that this program or any portion of this program will cause the retirement system, or any portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply. Upon such notice, the state board or the division shall notify the presiding officers of the Legislature. The state board and the department may adopt any rules necessary to maintain the qualified status of the survivor benefit retirement program.

Section 9. Subsections (1) and (3) of section 121.735, Florida Statutes, are amended to read:

121.735 Allocations for member line-of-duty death benefits; percentage amounts.—

(1) The allocations established in subsection (3) shall be used to provide line-of-duty death benefit coverage for ~~Special Risk Class~~ members in the investment plan and shall be transferred monthly by the division from the Florida Retirement System Contributions Clearing Trust Fund to the survivor benefit account of the Florida Retirement System Trust Fund.

(3) Effective July 1, 2017 ~~2016~~, allocations from the

585-04368-17 20177030__

1277 Florida Retirement System Contributions Clearing Trust Fund to
 1278 provide line-of-duty death benefits for ~~Special Risk Class~~
 1279 members in the investment plan and to offset the costs of
 1280 administering said coverage, are as follows:

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Membership Class	Percentage of Gross Compensation

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<u>Regular Class</u>	<u>0.05%</u>

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Special Risk Class	<u>1.15%</u> ~~0.82%~~

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<u>Special Risk Administrative Support Class</u>	<u>0.03%</u>

1286

<u>Elected Officers' Class-- Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	<u>0.15%</u>

1287

<u>Elected Officers' Class-- Justices, Judges</u>	<u>0.09%</u>

1288

<u>Elected Officers' Class-- County Elected Officers</u>	<u>0.20%</u>

Page 45 of 47

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585-04368-17 20177030__

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<u>Senior Management Service Class</u>	<u>0.05%</u>

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Section 10. The Legislature shall review the current status of research programs, funded wholly or in part by the General Appropriations Act, which study the incidence of cancer in firefighters. This review must be conducted before the convening of the 2018 Regular Session of the Legislature to determine whether any further statutory changes are necessary as a result of the enactment of s. 112.1816, Florida Statutes, by this act.

Section 11. (1) In order to fund the benefit changes provided in this act, the required employer contribution rate for members of the Florida Retirement System established in s. 121.71(4), Florida Statutes, are adjusted as follows:

(a) The Regular Class is increased by 0.01 percentage point.

(b) The Special Risk Class is increased by 0.06 percentage point.

(c) The Special Risk Administrative Support Class is increased by 0.02 percentage point.

(d) The Elected Officers' Class--Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, and Public Defenders is increased by 0.04 percentage point.

(e) The Elected Officers' Class--Justices, Judges is increased by 0.01 percentage point.

(f) The Elected Officers' Class--County Elected Officers is increased by 0.06 percentage point.

(g) The Senior Management Service Class is increased by

Page 46 of 47

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585-04368-17

20177030__

0.01 percentage point.

(2) In order to fund the benefit changes provided in this act, the required employer contribution rate for the unfunded actuarial liability of the Florida Retirement System established in s. 121.71(5), Florida Statutes, for the Special Risk Class is increased by 0.12 percentage point.

(3) The adjustments provided in subsections (1) and (2) are in addition to any other changes to such contribution rates which may be enacted into law to take effect on July 1, 2017. The Division of Law Revision and Information is directed to adjust accordingly the contribution rates provided in s. 121.71, Florida Statutes.

Section 12. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems. These persons must be provided benefits that are fair and adequate and that are managed, administered, and funded in an actuarially sound manner, as required by s. 14, Article X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 13. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/HB 23, 1st Eng.

INTRODUCER: Health Care Appropriations Subcommittee; Children, Families and Seniors Subcommittee; and Representative Eagle and others

SUBJECT: Public Assistance

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sneed</u>	<u>Hansen</u>	<u>AP</u>	<u>Pre-meeting</u>

I. Summary:

CS/CS/HB 23 makes a number of changes to the state's main economic assistance programs administered by Department of Children and Families (DCF).

For the Temporary Assistance for Needy Families, or Temporary Cash Assistance Program (TCA), the bill:

- Increases penalties for noncompliance with work requirements;
- Requires an individual work plan for each recipient to assist them to meet the work requirements;
- Prohibits certain locations where electronic benefits transfer (EBT) cards can be used; and
- Imposes a replacement fee for lost EBT cards replaced more than 5 times in a year.

The bill prohibits relative caregiver payments when the dependent child is a parent of a child where both live with the relative.

For the Food Assistance Program or SNAP, the bill:

- Prohibits the DCF from expanding financial eligibility standards unless authorized by the Legislature or required by federal rule; and
- Directs DCF to seek federal approval to establish asset limits of \$2,250 for households without elderly or disabled members and \$3,250 for households with elderly or disabled members and implement an asset verification service.

In addition, the bill makes several changes to CareerSource Florida, Inc., which assists recipients in meeting work requirements. The bill increases reporting requirements for participant employment data. The bill requires the implementation of a pilot program to increase employment among TCA and SNAP participants.

The bill makes appropriations to DCF and DEO of trust fund moneys to implement the requirements of the bill. *See Section V.*

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

II. Present Situation:

Temporary Assistance for Needy Families (TANF)

The TANF program is a block grant that provides federal funding to states for a wide range of benefits and activities to support indigent families. It is best known for providing cash assistance to needy families with children. The TANF program was created in the 1996 welfare reform law as part of the Personal Responsibility and Work Opportunity Reconciliation Act.¹ In Florida, the 1996 legislature passed the Work and Gain Economic Self-Sufficiency Act in anticipation of passage of federal welfare reform. The Department of Children and Families (DCF) refers to the benefits from TANF as Temporary Cash Assistance.

The purpose of TANF is to:

- To provide assistance to needy families with children so that they can live in their own home or the homes of relatives;
- To end the dependency of needy parents on government benefits through work, job preparation, and marriage;
- To reduce the incidence of out-of-wedlock pregnancies; and
- To promote the formation and maintenance of two-parent families.²

Eligibility

Florida law specifies two major categories of families who may be eligible for TANF cash assistance, those families that are work-eligible, and those child-only cases.³ While many of the basic eligibility requirements apply to all of these categories, there are some distinctions between the categories in terms of requirements and restrictions.

Work-Eligible Cases

Within the TANF work-eligible cases, there are single parent families and two-parent families. Single parent families can receive cash assistance for the parent and the children. The parent is subject to all of the financial and non-financial requirements described below including the work requirements and time limits. Single parents with a child under age six meet the participation rate with 20 hours of work participation per week.

Two-parent families with children are eligible on the same basis as single-parent families except the work requirement for two-parent families includes a higher number of hours of participation per week (35 hours or 55 hours if child care is subsidized) than required for single-parent families (30 hours).

¹ Temporary Assistance for Needy Families, An Overview of Program Requirements. January 2016. Department of Children and Families. <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf>.

² U.S. Department of Health and Human Services, see <http://www.acf.hhs.gov/programs/ofa/programs/tanf/about> (last visited March 29, 2017).

³ s. 414.045(1), Florida Statutes.

Child-Only Cases

There are two child-only types of TANF cases. The first is where the child is living with a relative or situations where a custodial parent is not eligible to be included in the eligibility group.⁴ In the majority of situations, the child is living with a grandparent or other relative. Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to their immigration status. Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

The second type of child-only TANF case is called the Relative Caregiver case where the child has been adjudicated dependent due to the original parents' inability to care for the child and the child has been placed with relatives by the court. These relatives are eligible for a payment that is higher than the typical child-only payment, but less than the payment for licensed foster care. As with other child-only families, grandparents or relatives receiving Relative Caregiver payments are not subject to the TANF work requirements or time limits.

To be eligible, families must meet both financial and non-financial requirements established in state law. In general, families must include a child (or a pregnant woman) and be residents of Florida. Children under age 5 must be current with childhood immunizations and children age 6 to 18 must attend school and parents or caretakers must participate in school conferences. Countable assets must be \$2,000 or less and licensed vehicles needed for individuals subject to the work requirement may not exceed \$8,500.

Noncitizens

Florida law currently excludes a pro-rata share of the income from a parent who is an illegal noncitizen or ineligible noncitizen.⁵ This means that a portion of the income that an illegal citizen parent contributes to the family is not counted towards the family's income for TANF eligibility.

Work requirements

Adults in families receiving cash assistance must work or participate in work related activities for a specified number of hours per week depending on the number of work-eligible adults in the family and the age of children.⁶

Type of Family	Work participation Hours Required
Other single parent families or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours in core activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent or participates in education related to employment for at least 20 hours weekly

⁴ Temporary Assistance for Needy Families, An Overview of Program Requirements. January 2016. Department of Children and Families. <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf>.

⁵ S. 414.095(3)(d), F.S.

⁶ *Id*

Type of Family	Work participation Hours Required
Two-parent families who do not receive subsidized child care	35 hours per week (total among both parents) with at least 30 hours in core activities
Two-parent families who receive subsidized child care	55 hours per week with at least 50 hours in core activities

Federal law includes 12 work activities, including 9 that are “core” activities in that they may be used to satisfy any of the average weekly participation requirements and 3 that are “supplemental” in that they may only be used to satisfy the work activity requirement after the “core” requirement is met.

Core Activities include:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Job search and job readiness (limited to not more than 6 weeks in a federal fiscal year with not more than 4 weeks consecutive).
- Community service
- Work experience
- On-the-job training
- Vocational educational training (limited to 12 months for an individual), and
- Caring for a child of a recipient in community service.⁷

Supplemental Activities include:

- Job skills training directly related to employment
- Education directly related to employment (for those without a high school or equivalent degree), and
- Completion of a secondary school program.⁸

The department works with CareerSource Florida, Inc., known locally as the regional workforce boards to serve the families defined as work-eligible. Workforce boards assist the client in employment training and securing employment. The boards also document whether the client meets the work requirements under TANF and reports this information to the department. If a client does not meet his or her work requirements, the department will sanction the client by reducing or eliminating cash assistance.

Amount of Assistance

The amount of temporary cash assistance received by a family depends on family size and whether the family must pay for housing. The following monthly amounts are specified in s. 414.095(10), F.S.

⁷ *Id*

⁸ *Id*

Family Size	No Obligation To Pay for Shelter	Shelter Costs Less than \$50	Shelter Costs Greater than \$50
1	\$95	\$153	\$180
2	\$158	\$205	\$241
3	\$198	\$258	\$303
4	\$254	\$309	\$364
5	\$289	\$362	\$426

Time Limits

Federal law restricts receipt of federal TANF benefits to not more than 60 months of assistance. States may exempt up to 20 percent of the caseload from the time limit due to state-defined hardship. Florida law limits receipt of assistance to not more than 48 cumulative months of assistance with exemptions to the time limit provided for hardship. Examples of hardship would include individuals receiving Social Security disability benefits (which are different from SSI benefits) or individuals caring for a disabled family member when the disability and the need for care have been medically verified.

Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS) under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP). SNAP offers nutrition assistance to millions of eligible, low-income individuals and families, in the form of funds to purchase “eligible food,”⁹ and provides economic benefits to communities by reducing poverty and food insecurity.

The federal government funds 100% of the benefit amount.¹⁰ However, FNS and states share the administrative costs of the program. Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need, streamline program administration and field operations, and coordinate SNAP activities with those of other programs.

The amount of benefits, or allotment, a household will qualify for depends on the number of individuals in the household and the household’s net income. To calculate a household’s allotment, 30% of its net income is subtracted from the maximum allotment for that household size.¹¹ This is because SNAP households are expected to spend about 30% of their own

⁹ The Food and Nutrition Act of 2008 defines eligible food as any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods and hot food products prepared for immediate consumption, with some exceptions. 7 USC § 2012(k); *see also* 7 CFR § 271.2. For an explanation of the inclusion of “junk food” and luxury items as eligible foods, *see* UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, *Supplemental Nutrition Assistance Program (SNAP) Eligible Food Items*, <https://www.fns.usda.gov/snap/eligible-food-items> (last visited April 28, 2017).

¹⁰ For FFY 2016, the maximum benefit amount was \$649 for a family of four, with an average benefit amount of \$471. *Policy Basics: Introduction to the Supplemental Nutrition Assistance Program (SNAP)*, CENTER FOR BUDGET AND POLICY PRIORITIES, updated March 24, 2016, available at <http://www.cbpp.org/sites/default/files/atoms/files/policybasics-foodstamps.pdf> (last visited April 28, 2017).

¹¹ *Id.*

resources on food.¹² For example, a household of three with a net monthly income of \$1,500 must subtract \$450 from the maximum allotment for their household, which is \$511 per month; the household would receive a food stamp allotment of \$61 for the month.

SNAP Eligibility

Federal law establishes two ways for a household to be eligible for SNAP:

- Having a gross income below 130% of the Federal Poverty Level (FPL) (or 165% FPL if at least one person is age 60 or older, or is disabled),¹³ a net income of 100% FPL, and less than \$2,250 of counted liquid and nonliquid assets (or \$3,250 if at least one person is age 60 or older or is disabled);¹⁴ or
- Being “categorically,” or automatically, eligible based on receiving benefits from other specified low-income assistance programs.¹⁵

Categorical eligibility allows households that already met financial eligibility rules in specified means-tested programs¹⁶ to be eligible for SNAP without going through another financial eligibility determination. Federal regulations *require* that states make categorically eligible those households in which all members are either eligible for or receive *cash* benefits, known as temporary cash assistance (TCA), from the Temporary Assistance for Needy Families (TANF) program, Social Security Income (SSI), or another general assistance program.¹⁷

SNAP Eligibility Verification

DCF administers the Automated Community Connection to Economic Self-Sufficiency (ACCESS) Program, which verifies identities and determines eligibility for SNAP as well as TANF and Medicaid.¹⁸ DCF collects household, identity, and income information from applicants. For example, SNAP applicants must provide DCF with proof of identity, citizenship, and noncitizen status of household members, including furnishing a Social Security number or proof of Social Security number application for each member.¹⁹ Applicants also provide proof of earned and unearned income for each household member (such as recent check stubs, child support information, and notices from the Social Security or Veteran’s Administrations).²⁰

¹² Id.

¹³ 7 CFR § 273.9(a)(1)-(2); 7 USC § 2014(c).

¹⁴ 7 CFR § 273.8(b) sets the maximum allowable resources at \$2,000 and \$3,000, respectively; however, these limits were raised to \$2,250 and \$3,250 pursuant to annual cost-of-living adjustments in October 2014, and remain at that level today. See, letter from Lizbeth Silberman, Director, Program Development Division, Food and Nutrition Service, United States Department of Agriculture, to all Regional Directors of the Supplemental Nutrition Assistance Program, RE: SNAP -Fiscal Year 2017 Cost-of-Living Adjustments, Aug. 10, 2016, available at, <https://www.fns.usda.gov/sites/default/files/snap/SNAP-Fiscal-Year-2017-Cost-of-Living-Adjustments.pdf> (last visited April 28, 2017).

¹⁵ 7 CFR § 273.2(j).

¹⁶ Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), or state-financed general assistance (GA) programs.

¹⁷ 7 CFR § 273.2(j)(i).

¹⁸ Rule 65A-1.205. F.A.C

¹⁹ *Supplemental Nutrition Assistance Program: DCF Has Mechanisms in Place to Facilitate Eligibility, Verify Participant Identity, and Monitor Benefit Use*, OPPAGA, Jan. 7, 2016.

²⁰ Id.

The ACCESS system's identity verification module compares the applicant's data against its database to verify an applicant's identity.²¹ The ACCESS system also validates information by comparing applicant's or recipient's data with income and eligibility data provided through the use of approximately 20 data exchanges, some of which are required by the federal government while others are used at the state's option. To finalize the application process, the ACCESS system's identity verification module generates four unique identity verification questions that an applicant may choose to answer before submitting the full application. These questions are complex and unrelated to the basic identifying information a thief could obtain from stealing an applicant's wallet.

Once eligible, recipients must report when their household income exceeds 130% FPL. DCF takes action to reevaluate SNAP eligibility or recalculate the SNAP benefit amount only on changes where the recipient's income exceeds 130% of the FPL or when it obtains certain information from its databases that would impact the recipient's benefit eligibility or amount.

SNAP Work Requirements

Beginning January 1, 2016, Florida implemented mandatory work requirements for all able bodied adults without dependents (ABAWD) in all 67 counties, reinstating benefit limits for ABAWDs who fail to meet work requirements.²²

ABAWDs who must comply with work requirements are referred to their regional workforce boards,²³ which provide information about available jobs, on-the-job training, and education and training services. ABAWDs may meet work requirements in a variety of ways by accessing services offered through regional workforce boards. ABAWDs are required to inform their CareerSource worker of their monthly hours working, volunteering, or in a work program to retain their SNAP benefits.

Relative Caregiver Program

The Relative Caregiver Program provides TCA to individuals who meet eligibility rules and have custody of a relative child under age 18 who has been court-ordered dependent by a Florida court and placed in their home by a DCF Child Welfare/Community Based Care contracted provider.²⁴ The intent of the Relative Caregiver Program is to provide relative caregivers who could not otherwise afford to take the child into their homes a means to avoid exposing the child to the trauma of shelter or foster care.

The Relative Caregiver Program provides one type of child-only TCA. Payments are based on the child's age and any countable income.²⁵ DCF ceases to provide child-only Relative Caregiver Program benefits when the parent or step-parent resides in the home with the relative caregiver and the child. DCF terminates the benefits in this situation based on the requirement in s. 414.095(2)(a)5., F.S., that parents who live with their minor children to be included in the

²¹ Id.

²² 7 CFR § 273.24(b).

²³ Rule 65A-1.605(5), F.A.C.

²⁴ S. 39.5085(2), F.S.

²⁵ Rule 65C-28.008(2)(g), F.A.C.

eligibility determination and households containing a parent are considered work-eligible households. Through rule 65C-28.008(2)(d), F.A.C., DCF terminates payments through the Relative Caregiver Program if the parent is in the home for 30 consecutive days.²⁶ However, at least one court has ruled that caregivers may continue to receive the Relative Caregiver Program benefits while the parent resides in the home, because the prohibition against the parent residing in the home is not in statute and DCF rules cannot be used to establish an eligibility guideline not included in the statute.²⁷ Court orders in such cases result in DCF being required to make disallowed TANF expenditures.

Electronic Benefits Transfer (EBT) Card Program

Electronic Benefits Transfer (EBT) is an electronic system that allows a recipient to authorize transfer of their government benefits, including from the SNAP and TCA programs, to a retailer account to pay for products received.²⁸ The EBT card program is administered on the federal level by the Food and Nutrition Service (FNS) within the United States Department of Agriculture and at the state level by DCF.

In Florida, benefits are deposited into a TCA or SNAP account each month; the benefits in the TCA or SNAP account are accessed using the Florida EBT Automated Community Connection to Economic Self Sufficiency (ACCESS) card.²⁹ Even though the EBT card is issued in the name of an applicant, any eligible member of the household is allowed to use the EBT card.³⁰ Additionally, recipients may designate an authorized representative as a secondary cardholder who can receive an EBT card and access the food assistance account. Authorized representatives are often someone responsible for caring for the recipient. The ACCESS Florida system allows recipients to designate one authorized representative per household.

Prohibited Use

The Middle Class Tax Relief and Job Creation Act of 2012 required states receiving TANF to create policies and practices as necessary to prevent assistance provided under the program from being used in any EBT transaction in the following establishments:

- Any liquor store;
- Any casino, gambling casino, or gaming establishment; or
- Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.³¹

²⁶ However, a relative may receive the Relative Caregiver Program payment for a minor parent who is in his or her care, as well as for that minor parent's child, if both children have been adjudicated dependent and meet all other eligibility requirements.

²⁷ Department of Children and Families, Agency Analysis of 2017 House Bill 1121, p. 4, (Mar. 10, 2017).

²⁸ U.S. DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICES, *EBT: General Electronic Benefit Transfer (EBT) Information*, <http://www.fns.usda.gov/ebt/general-electronic-benefit-transfer-ebt-information> (last visited April 28, 2017).

²⁹ DEPARTMENT OF CHILDREN AND FAMILIES, *Welcome to EBT*, <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/welcome-ebt> (last visited April 28, 2017).

³⁰ 7 C.F.R. § 273.2(n)(3).

³¹ P.L. 112-96. Section 4004.

In 2013, Florida enacted legislation³² that prohibits EBT cards from being accepted at the following locations or for the following activities:

- The purchase of an alcoholic beverage as defined in s. 561.01, F.S., and sold pursuant to the Florida Beverage Law.
- An adult entertainment establishment, as defined in s. 847.001, F.S.;
- A pari-mutuel facility, as defined in s. 550.02, F.S.;
- A slot machine facility, as defined in s. 551.102, F.S.;
- A commercial bingo facility that operates outside the provisions of s. 849.0931, F.S.; and
- A casino, gaming facility, or Internet café, including gaming activities authorized under part II of chapter 285.³³

Replacement of EBT Cards

When a recipient loses his or her EBT card, he or she must call the EBT vendor's customer service telephone number to request a replacement EBT card.³⁴ The vendor then deactivates the card, and sends the household a new card.³⁵ Federal regulations allow recipients to request an unlimited number of replacement EBT cards.³⁶ While states cannot limit the number of replacement cards, frequent requests for replacement cards can be an indicator of EBT card fraud, such as trafficking, which occurs when an EBT card containing benefits is exchanged for cash. FNS and DCF consider multiple replacement cards a preliminary indicator of trafficking.

FNS aims to preserve food assistance access for vulnerable populations (e.g., mentally ill and homeless people) who are at risk of losing their cards but who are not committing fraud,³⁷ while preventing others from trafficking and replacing their EBT cards. In the interest of preventing fraud, FNS regulations require states to monitor all client requests for EBT card replacements and send a notice, upon the fourth request in a 12-month period, alerting the household that their account is being monitored for potential suspicious activity.³⁸

In Fiscal Year 2014-2015, DCF sent 13,967 letters to households that had requested four or more cards.³⁹ The letter informs the recipient that the card does not need to be replaced each month and that it is important to keep track of the card.⁴⁰ The letter also informs the recipient that this number of replacement requests is not normal and that the household's EBT behavior is being monitored.⁴¹ Additionally, in Fiscal Year 2014-2015, less than one-third of the households who requested four cards (4,653 households) requested yet another replacement card after receiving

³² S. 1, chapter 2013-88, Laws of Florida.

³³ S. 402.82(4), F.S.

³⁴ The Florida Legislature's Office of Program Policy Analysis & Government Accountability, *Supplemental Nutrition Assistance Program: DCF Has Mechanisms in Place to Facilitate Eligibility, Verify Participant Identity, and Monitor Benefit Use*, Dec. 3, 2015, p. 8 (research memorandum on file with Children, Families, and Seniors Subcommittee staff).

³⁵ *Id.*

³⁶ 7 C.F.R. § 276.4

³⁷ 7 C.F.R. § 274.6(b)(5)(iii).

³⁸ 7 C.F.R. § 274.6(b)(6); in Florida, after the EBT vendor provides a fourth replacement card to a household within a 12-month span, DCF sends a letter to the household.

³⁹ *Supra*, note 34.

⁴⁰ *Id.*

⁴¹ *Id.*

the letter, and the DCF Office of Public Benefits Integrity referred these cases to the Department of Financial Services Division of Public Assistance Fraud for potential fraud investigation.⁴²

Federal regulations allow states to charge recipients for the cost to replace an excessive⁴³ number of cards. FNS allows states to charge for the cost of the EBT card after four replaced cards. Under DCF's EBT contract, the vendor reports that replacements costs \$3.50 per card.⁴⁴ A number of other states that charge for replacement cards. Those states charge between \$2.00 to \$5.00⁴⁵ per replacement card with some exceptions for good cause or financial hardship.

III. Effect of Proposed Changes:

Section 1 amends s. 414.065, F.S., specifying sanctions for noncompliance with TANF work requirements. The penalty for not completing the work requirements is changed from the termination of benefits from 10 days to 1 month. Once the recipient complies with the work requirements, assistance begins again the first day of the month following the penalty time period. Sanctions for non-compliance are on the parent only; children under age 16 continue to receive assistance through an alternative payee.⁴⁶ In the second instance of not meeting work requirements, the bill increases the sanction of terminating benefits to the parent from one month to three. For the third time of noncompliance, the penalty is increased from 3 to 6 months. The bill adds a penalty for the fourth instance of noncompliance of termination of benefits for 12 months.

Section 2 amends s. 445.024, F.S., relating to work requirements for TANF participants. The bill requires a work plan agreement with the individual developed by the Department of Economic Opportunity, CareerSource Florida, and DCF. The plan must be in plain language, state what is expected of the participant, when and how they would be sanctioned, and contain strategies to help them overcome barriers to complete the work requirements.

Section 3 amends s. 402.82, F.S., to expand the locations where EBT cards are prohibited to include: medical marijuana treatment centers or dispensing organizations; cigar stores and stands, pipe stores, smoke shops and tobacco shops; and business establishments primarily engaged in the practice of body piercing, branding or tattooing.

In addition, the bill imposes a fee on the TANF participant if the EBT card is lost or stolen 5 times in one year. The cost of the replacement card will be deducted from the amount of the cash assistance. DCF may waive the replacement fee for participants with extreme financial hardships.

Section 4 amends s. 39.5085, F.S., relating to the Relative Caregiver Program. Consistent with federal law, the bill prohibits payments when both the dependent parent and their child live with

⁴² Id.

⁴³ Defined by federal regulation as in excess of four cards within a 12-month span.

⁴⁴ *Supra*, note 34.

⁴⁵ By way of example, Louisiana and Maryland charge \$2.00, New Mexico charges \$2.50, and Massachusetts charges \$5.00.

⁴⁶ Department of Children and Families bill analysis for SB 570. Feb. 21, 2017. On file with the Senate Committee on Children, Families, and Elder Affairs.

the relative caregiver. This occurs when the parent is under 18 years of age. Payments can, however be made in cases where both the parent and child are adjudicated dependent.

Section 5 amends 414.14, F.S., to require DCF to simplify and align state public assistance policy with federal policy. Current law requires DCF to align food assistance and medical assistance eligibility policies to simplify the budgeting process and reduce payment errors. If the department determines that the current law is inconsistent with federal law, DCF may change procedures to improve the administration of the program. The bill allows DCF to change these provisions only if the change does not increase the income or resource eligibility standards for the program.

Section 6 amends s. 414.175, F.S., relating to the review of existing waivers. Current law requires DCF to review federal law and obtain waivers to improve the operation of the federal food assistance program. The bill limits the department to obtaining waivers only when such waivers do not increase income or resource eligibility standards above what is allowed by federal regulation.

Section 7 creates s. 414.315, F.S., establishing food assistance program resource eligibility standards. The bill requires DCF to seek federal approval to implement the following asset limits for food assistance recipients:

- \$2,250 in liquid and non-liquid assets for households without elderly or disabled members, and
- \$3,250 in liquid and non-liquid assets for households that include an elderly or disabled member.

The bill requires DCF to obtain specific authorization from the Legislature for any waiver that expands resource eligibility for food assistance programs, unless such eligibility change is required by federal law. These requirements are not applicable to households that are categorically eligible under federal rule.

Section 8 creates s. 414.393, F.S., to require DCF to implement an asset verification service to determine eligibility for public assistance programs. This requirement is contingent on federal approval.

Section 9 amends s. 445.004, F.S., to increase the reporting requirements for the annual report by CareerSource Florida, Inc. The report must now include data on employment outcomes for TCA and SNAP participants subject to work requirements. The bill requires CareerSource Florida, Inc. to implement a pilot program to increase employment and income of TCA and SNAP participants. The pilot targets participants who face significant barriers to employment. The bill defines significant barriers to include such things as substance abuse, mental illness, or job skill deficiencies. CareerSource Florida must contract with a provider with experience in workforce programs for the pilot by October 31, 2017. The bill provides additional requirements of the pilot.

Section 10 appropriates the following funds to DCF for Fiscal Year 2017-2018 to implement the provisions of the bill:

- \$3,342,525 in nonrecurring funds from the Federal Grants Trust Fund to contract with a vendor to develop an asset verification service for food assistance programs pursuant to s. 414.393, F.S., and
- \$300,000 in nonrecurring funds from the Federal Grants Trust Fund to perform the technology modifications necessary to implement the asset verification services.

Section 11 appropriates \$500,000 from the Welfare Transition Trust Fund for Fiscal Year 2017-2018 to DEO for distribution to CareerSource Florida, Inc., to contract for the development of a program to serve temporary cash assistance work registrants with significant barriers to employment to overcome such barriers.

Section 12 appropriates \$952,360 in nonrecurring funds from the Federal Grants Trust Fund to make the technology modifications necessary to implement the changes to the disbursement of TCA and the replacement of EBT cards.

Section 13 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

DCF may charge the costs of replacement cards against an EBT cardholder's benefits. The cardholder's benefits will be reduced by the cost to replace his or her EBT card.

C. Government Sector Impact:

The bill creates a fiscal impact on both DCF and DEO. Funding is provided in the bill. For fiscal year 2017-2018, the bill appropriates the following nonrecurring funds:

- \$3,342,525 from the Federal Grants Trust Fund to DCF to contract with a vendor to develop an asset verification service for public assistance programs;
- \$300,000 from the Federal Grants Trust Fund to DCF to perform the technology modifications necessary to implement the asset verification service;
- \$500,000 from the Welfare Transition Trust Fund to DEO for distribution to CareerSource Florida, Inc., to contract for the development of a pilot program to serve temporary cash assistance work registrants with significant barriers to employment to overcome such barriers; and
- \$952,360 from the Federal Grants Trust Fund for the purpose of making the technology modifications necessary to implement the changes to the disbursement of TCA and the replacement of EBT cards.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 414.065, 445.024, 402.82, 39.5085, 414.14, 414.175, 414.315, 414.393, and 445.004.

This bill creates sections 414.315 and 414.393 of the Florida Statutes.

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

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

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (c) is added to subsection (7) of
section 445.004, Florida Statutes, to read:

445.004 CareerSource Florida, Inc.; creation; purpose;
membership; duties and powers.—

(7) By December 1 of each year, CareerSource Florida, Inc.,
shall submit to the Governor, the President of the Senate, the



968490

Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed annual report setting forth:

(c) For each local workforce development board, participant statistics and employment outcomes, by program, for individuals subject to mandatory work requirements due to receipt of temporary cash assistance or food assistance under chapter 414, including:

1. Individuals served.
2. Services received.
3. Activities in which individuals participated.
4. Types of employment secured.
5. Individuals securing employment but remaining in each program.
6. Individuals exiting programs due to employment.
7. Employment status at 3 months, 6 months, and 12 months after exiting the program, for the past 3 years.

Section 2. Present subsections (3) through (7) of section 445.024, Florida Statutes, are renumbered as subsections (4) through (8), respectively, and a new subsection (3) is added to that section, to read:

445.024 Work requirements.—

(3) WORK PLAN AGREEMENT.—For each individual who is not otherwise exempt from work activity requirements, but before a participant may receive temporary cash assistance, the Department of Economic Opportunity, in cooperation with CareerSource Florida, Inc., and the Department of Children and Families, must:

- (a) Inform the participant, in plain language, and require



968490

the participant to assent to, in writing:

1. What is expected of the participant to continue to receive temporary cash assistance benefits.

2. Under what circumstances the participant would be sanctioned for noncompliance.

3. Potential penalties for noncompliance with the work requirements in s. 414.065, including how long benefits would not be available to the participant.

(b) Work with the participant to develop strategies to assist the participant in overcoming obstacles to compliance with the work activity requirements.

Section 3. Present subsection (4) of section 402.82, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to that section, to read:

402.82 Electronic benefits transfer program.—

(4) The department shall impose a fee for the fifth and each subsequent request for a replacement electronic benefits transfer card made by a participant within a 12-month period. The fee must be equal to the cost of replacing the electronic benefits transfer card. The fee may be deducted from the participant's benefits. The department may waive the replacement fee upon a showing of good cause, such as the malfunction of the card or extreme financial hardship.

Section 4. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 39.5085, Florida Statutes, are amended to read:

39.5085 Relative Caregiver Program.—

(1) It is the intent of the Legislature in enacting this section to:



968490

(a) Provide for the establishment of procedures and protocols that serve to advance the continued safety of children by acknowledging the valued resource uniquely available through grandparents, relatives of children, and specified nonrelatives of children pursuant to sub-subparagraph (2)(a)1.c. ~~subparagraph (2)(a)3.~~

(2)(a) The Department of Children and Families shall establish, ~~and operate,~~ and implement the Relative Caregiver Program ~~pursuant to eligibility guidelines established in this section as further implemented~~ by rule of the department.

1. The Relative Caregiver Program shall, within the limits of available funding, provide financial assistance to:

a.1. ~~Relatives~~ who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

b.2. ~~Relatives~~ who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

c.3. ~~Nonrelatives~~ who are willing to assume custody and care of a dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative



968490

caregiver under this chapter. The court must find that a proposed placement under this subparagraph is in the best interest of the child.

2. The relative or nonrelative caregiver may not receive a Relative Caregiver Program payment if the parent or stepparent of the child resides in the home. However, a relative or nonrelative may receive the payment for a minor parent who is in his or her care and for the minor parent's child, if both the minor parent and the child have been adjudicated dependent and meet all other eligibility requirements. If the caregiver is currently receiving the payment, the payment must be terminated no later than the first day of the following month after the parent or stepparent moves into the home. Before the payment is terminated, the caregiver must be given 10 days' notice of adverse action.

The placement may be court-ordered temporary legal custody to the relative or nonrelative under protective supervision of the department pursuant to s. 39.521(1)(b)3., or court-ordered placement in the home of a relative or nonrelative as a permanency option under s. 39.6221 or s. 39.6231 or under former s. 39.622 if the placement was made before July 1, 2006. The Relative Caregiver Program shall offer financial assistance to caregivers who would be unable to serve in that capacity without the caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

Section 5. (1) The Office of Program Policy Analysis and Government Accountability shall conduct a study of each local



968490

workforce development board to determine what barriers exist
which prevent participants in the Supplemental Nutrition
Assistance Program and the Temporary Assistance for Needy
Families cash assistance program from complying with the work
requirements in the respective programs. The study must include
detailed data and analysis of the reasons why applicants and
recipients do not comply with the work requirements, the reasons
that noncompliant applicants and recipients identify as barriers
to compliance, and what assistance was offered to the
participants to come into compliance. The study must also
include a listing of the specific reasons for the sanctions
applied, separated into categories with the number of
participants who received each sanction. For example:

(a) Failure to attend a scheduled meeting-10 people
sanctioned;

(b) Failure to complete required documents-5 people
sanctioned; or

(c) Failure to comply with child support requirements, with
specifics on what the requirement was.

(2) The legislative intent for requesting this independent
study is to gain an in-depth understanding of the barriers that
may exist for people trying to participate in the workforce,
through reviewing the specific reasons participants are
sanctioned on a region by region basis.

(3) The Office of Program Policy Analysis and Government
Accountability shall submit a report with its findings and
recommendations to the Governor, the President of the Senate,
the Speaker of the House of Representatives, and the Minority
Leaders of the Senate and the House of Representatives by



968490

November 1, 2017.

Section 6. TANF Reemployment Pilot Program.—

(1) The Legislature finds that there is an important state interest in assisting Temporary Assistance for Needy Families (TANF) recipients in finding and securing stable and productive employment and that reemployment programs have the potential to benefit such recipients and their families and to alleviate the financial strain on the state economy.

(2) The TANF Reemployment Pilot Program is created in Pinellas County and shall be administered by the Pinellas Opportunity Council, Inc.

(3) The purpose of the pilot program is to assist TANF recipients in developing return-to-work plans with the goal of reemployment.

Section 7. For the 2017-2018 fiscal year, the sum of \$150,000 in nonrecurring funds from the General Revenue Fund and \$150,000 in nonrecurring funds from the Federal Grants Trust Fund are appropriated for the TANF Reemployment Pilot Program.

Section 8. This act shall take effect July 1, 2017.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public assistance; amending s.
445.004, F.S.; requiring CareerSource Florida, Inc.,
to submit a detailed annual report on certain
information for individuals subject to mandatory work



968490

requirements who receive temporary cash or food assistance; amending s. 445.024, F.S.; requiring the Department of Economic Opportunity, in cooperation with CareerSource Florida, Inc., and the Department of Children and Families, to develop and implement a work plan agreement for participants in the temporary cash assistance program; requiring the plan to identify expectations, sanctions, and penalties for noncompliance with work requirements; amending s. 402.82, F.S.; requiring the Department of Children and Families to impose a replacement fee for electronic benefits transfer cards under certain circumstances; amending s. 39.5085, F.S.; revising eligibility guidelines for the Relative Caregiver Program with respect to relative and nonrelative caregivers; requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study; providing study requirements; providing legislative intent; requiring OPPAGA to submit a report by a certain date to the Governor and the Legislature; providing legislative findings; creating the TANF Reemployment Pilot Program in Pinellas County; providing for the administration of the program; providing the purpose and goal of the program; providing an appropriation; providing an effective date.



CS/CS/HB 23, Engrossed 1

2017

1 A bill to be entitled
 2 An act relating to public assistance; amending s.
 3 414.065, F.S.; revising penalties for noncompliance
 4 with work requirements for temporary cash assistance;
 5 limiting the receipt of child-only benefits during
 6 periods of noncompliance with work requirements;
 7 providing applicability of work requirements before
 8 expiration of the minimum penalty period; requiring
 9 the Department of Children and Families to refer
 10 sanctioned participants to appropriate free and low-
 11 cost community services, including food banks;
 12 amending s. 445.024, F.S.; requiring the Department of
 13 Economic Opportunity, in cooperation with CareerSource
 14 Florida, Inc., and the Department of Children and
 15 Families, to develop and implement a work plan
 16 agreement for participants in the temporary cash
 17 assistance program; requiring the plan to identify
 18 expectations, sanctions, and penalties for
 19 noncompliance with work requirements; amending s.
 20 402.82, F.S.; prohibiting the use of an electronic
 21 benefits transfer card at specified locations;
 22 requiring the Department of Children and Families to
 23 impose a replacement fee for electronic benefits
 24 transfer cards under certain circumstances; amending
 25 s. 39.5085, F.S.; revising eligibility guidelines for

Page 1 of 21

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

hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

26 the Relative Caregiver Program with respect to
 27 relative and nonrelative caregivers; amending ss.
 28 414.14 and 414.175, F.S.; authorizing changes to
 29 public assistance policy and federal food assistance
 30 waivers to conform to federal law and simplify
 31 administration unless such changes increase program
 32 eligibility standards; creating s. 414.315, F.S.;
 33 requiring the Department of Children and Families to
 34 seek federal approval to establish food assistance
 35 program resource eligibility standards for all initial
 36 applications and recertifications; providing that such
 37 standards are subject to changes in federal
 38 regulations governing resource eligibility; requiring
 39 the department to obtain legislative authorization
 40 before seeking federal waivers to expand resource and
 41 income eligibility for food assistance; creating s.
 42 414.393, F.S.; requiring the department, upon federal
 43 approval, to implement an asset verification service
 44 to verify eligibility for food assistance; amending s.
 45 445.004, F.S.; requiring CareerSource Florida, Inc.,
 46 to include certain data relating to the performance
 47 outcomes of local workforce development boards and
 48 associated pilot programs in an annual report to the
 49 Governor and Legislature; providing legislative
 50 findings; providing definitions; requiring

Page 2 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

51 CareerSource Florida, Inc., to contract with a vendor
 52 to develop a pilot program to increase employment
 53 among certain persons receiving temporary cash
 54 assistance by a specified date; providing criteria for
 55 selecting a vendor; providing criteria for selecting
 56 local workforce boards to conduct the pilot program;
 57 requiring CareerSource Florida, Inc., to submit a
 58 comprehensive report on the outcome of the pilot
 59 program to the Governor and Legislature by a specified
 60 date; providing an appropriation; providing an
 61 effective date.

62
 63 Be It Enacted by the Legislature of the State of Florida:

64
 65 Section 1. Subsection (1) and paragraph (a) of subsection
 66 (2) of section 414.065, Florida Statutes, are amended to read:

67 414.065 Noncompliance with work requirements.—

68 (1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS
 69 AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The
 70 department shall establish procedures for administering
 71 penalties for nonparticipation in work requirements and failure
 72 to comply with the alternative requirement plan. If an
 73 individual in a family receiving temporary cash assistance fails
 74 to engage in work activities required in accordance with s.
 75 445.024, the following penalties shall apply. Prior to the

Page 3 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

76 imposition of a sanction, the participant shall be notified
 77 orally or in writing that the participant is subject to sanction
 78 and that action will be taken to impose the sanction unless the
 79 participant complies with the work activity requirements. The
 80 participant shall be counseled as to the consequences of
 81 noncompliance and, if appropriate, shall be referred for
 82 services that could assist the participant to fully comply with
 83 program requirements. If the participant has good cause for
 84 noncompliance or demonstrates satisfactory compliance, the
 85 sanction may ~~shall~~ not be imposed. If the participant has
 86 subsequently obtained employment, the participant shall be
 87 counseled regarding the transitional benefits that may be
 88 available and provided information about how to access such
 89 benefits. The department shall administer sanctions related to
 90 food assistance consistent with federal regulations.

91 (a)1. First noncompliance:

92 a. Temporary cash assistance shall be terminated for the
 93 family for a minimum of 1 month ~~10 days~~ or until the individual
 94 who failed to comply does so, whichever is later. Upon meeting
 95 this requirement, temporary cash assistance shall be reinstated
 96 to the date of compliance or the first day of the month
 97 following the penalty period, whichever is later.

98 b. Upon the first occurrence of noncompliance, temporary
 99 cash assistance for the child or children in a family who are
 100 under age 16 may be continued for the first month of the penalty

Page 4 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

101 period through a protective payee as specified in subsection
 102 (2).

103 2. Second noncompliance:

104 a. Temporary cash assistance shall be terminated for the
 105 family for 3 months ~~1 month~~ or until the individual who failed
 106 to comply does so, whichever is later. The individual shall be
 107 required to comply with the required work activity upon
 108 completion of the 3-month penalty period before reinstatement of
 109 temporary cash assistance. Upon meeting this requirement,
 110 temporary cash assistance shall be reinstated to the date of
 111 compliance or the first day of the month following the penalty
 112 period, whichever is later.

113 b. Upon the second occurrence of noncompliance, temporary
 114 cash assistance for the child or children in a family who are
 115 under age 16 may be continued for the first 3 months of the
 116 penalty period through a protective payee as specified in
 117 subsection (2).

118 3. Third noncompliance:

119 a. Temporary cash assistance shall be terminated for the
 120 family for ~~6~~ 3 months or until the individual who failed to
 121 comply does so, whichever is later. The individual shall be
 122 required to comply with the required work activity upon
 123 completion of the ~~6-month~~ 3-month penalty period, before
 124 reinstatement of temporary cash assistance. Upon meeting this
 125 requirement, temporary cash assistance shall be reinstated to

Page 5 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

126 the date of compliance or the first day of the month following
 127 the penalty period, whichever is later.

128 b. Upon the third occurrence of noncompliance, temporary
 129 cash assistance for the child or children in a family who are
 130 under age 16 may be continued for the first 6 months of the
 131 penalty period through a protective payee as specified in
 132 subsection (2).

133 4. Fourth noncompliance:

134 a. Temporary cash assistance shall be terminated for the
 135 family for 12 months or until the individual who failed to
 136 comply does so, whichever is later. The individual shall be
 137 required to comply with the required work activity upon
 138 completion of the 12-month penalty period and reapply before
 139 reinstatement of temporary cash assistance. Upon meeting this
 140 requirement, temporary cash assistance shall be reinstated to
 141 the first day of the month following the penalty period.

142 b. Upon the fourth occurrence of noncompliance, temporary
 143 cash assistance for the child or children in a family who are
 144 under age 16 may be continued for the first 12 months of the
 145 penalty period through a protective payee as specified in
 146 subsection (2).

147 5. The sanctions imposed under subparagraphs 1.-4. do not
 148 prohibit a participant from complying with the work activity
 149 requirements during the penalty periods imposed by this
 150 paragraph.

Page 6 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

151 (b) If a participant receiving temporary cash assistance
 152 who is otherwise exempted from noncompliance penalties fails to
 153 comply with the alternative requirement plan required in
 154 accordance with this section, the penalties provided in
 155 paragraph (a) shall apply.

156 (c) When a participant is sanctioned for noncompliance
 157 with this section, the department shall refer the participant to
 158 appropriate free and low-cost community services, including food
 159 banks.

160

161 If a participant fully complies with work activity requirements
 162 for at least 6 months, the participant shall be reinstated as
 163 being in full compliance with program requirements for purpose
 164 of sanctions imposed under this section.

165 (2) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR
 166 CHILDREN; PROTECTIVE PAYEES.—

167 (a) Upon the second or subsequent ~~third~~ occurrence of
 168 noncompliance, subject to the limitations in paragraph (1)(a),
 169 temporary cash assistance and food assistance for the child or
 170 children in a family who are under age 16 may be continued. Any
 171 such payments must be made through a protective payee or, in the
 172 case of food assistance, through an authorized representative.
 173 Under no circumstances shall temporary cash assistance or food
 174 assistance be paid to an individual who has failed to comply
 175 with program requirements.

Page 7 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

176 Section 2. Subsections (3) through (7) of section 445.024,
 177 Florida Statutes, are renumbered as subsections (4) through (8),
 178 respectively, and a new subsection (3) is added to that section,
 179 to read:

180 445.024 Work requirements.—

181 (3) WORK PLAN AGREEMENT.—For each individual who is not
 182 otherwise exempt from work activity requirements, but before a
 183 participant may receive temporary cash assistance, the
 184 Department of Economic Opportunity, in cooperation with
 185 CareerSource Florida, Inc., and the Department of Children and
 186 Families, must:

187 (a) Inform the participant, in plain language, and require
 188 the participant to assent to, in writing:

189 1. What is expected of the participant to continue to
 190 receive temporary cash assistance benefits.

191 2. Under what circumstances the participant would be
 192 sanctioned for noncompliance.

193 3. Potential penalties for noncompliance with work
 194 requirements in s. 414.065, including how long benefits would
 195 not be available to the participant.

196 (b) Work with the participant to develop strategies to
 197 assist the participant in overcoming obstacles to compliance
 198 with the work activity requirements.

199 Section 3. Paragraphs (g), (h), and (i) are added to
 200 subsection (4) of section 402.82, Florida Statutes, and

Page 8 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

201 subsection (5) is added to that section, to read:

202 402.82 Electronic benefits transfer program.—

203 (4) Use or acceptance of an electronic benefits transfer

204 card is prohibited at the following locations or for the

205 following activities:

206 (g) A medical marijuana treatment center or dispensing

207 organization.

208 (h) A cigar store or stand, pipe store, smoke shop, or

209 tobacco shop.

210 (i) A body piercing salon as defined in s. 381.0075(2)(b),

211 a tattoo establishment as defined in s. 381.00771, or a business

212 establishment primarily engaged in the practice of branding.

213 (5) The department shall impose a fee for the fifth and

214 each subsequent request for a replacement electronic benefits

215 transfer card that a participant requests within a 12-month

216 period. The fee must be equal to the cost to replace the

217 electronic benefits transfer card. The fee may be deducted from

218 the participant's benefits. The department may waive the

219 replacement fee upon a showing of good cause, such as the

220 malfunction of the card or extreme financial hardship.

221 Section 4. Paragraph (a) of subsection (1) and paragraph

222 (a) of subsection (2) of section 39.5085, Florida Statutes, are

223 amended to read:

224 39.5085 Relative Caregiver Program.—

225 (1) It is the intent of the Legislature in enacting this

Page 9 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

226 section to:

227 (a) Provide for the establishment of procedures and

228 protocols that serve to advance the continued safety of children

229 by acknowledging the valued resource uniquely available through

230 grandparents, relatives of children, and specified nonrelatives

231 of children pursuant to sub-subparagraph (2)(a)1.c. subparagraph

232 (2)(a)3.

233 (2)(a) The Department of Children and Families shall

234 establish, ~~and operate, and implement~~ the Relative Caregiver

235 Program ~~pursuant to eligibility guidelines established in this~~

236 ~~section as further implemented by rule of the department.~~

237 1. The Relative Caregiver Program shall, within the limits

238 of available funding, provide financial assistance to:

239 ~~a.1-~~ Relatives who are within the fifth degree by blood or

240 marriage to the parent or stepparent of a child and who are

241 caring full-time for that dependent child in the role of

242 substitute parent as a result of a court's determination of

243 child abuse, neglect, or abandonment and subsequent placement

244 with the relative under this chapter.

245 ~~b.2-~~ Relatives who are within the fifth degree by blood or

246 marriage to the parent or stepparent of a child and who are

247 caring full-time for that dependent child, and a dependent half-

248 brother or half-sister of that dependent child, in the role of

249 substitute parent as a result of a court's determination of

250 child abuse, neglect, or abandonment and subsequent placement

Page 10 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

251 with the relative under this chapter.

252 ~~C.3-~~ Nonrelatives who are willing to assume custody and
 253 care of a dependent child in the role of substitute parent as a
 254 result of a court's determination of child abuse, neglect, or
 255 abandonment and subsequent placement with the nonrelative
 256 caregiver under this chapter. The court must find that a
 257 proposed placement under this subparagraph is in the best
 258 interest of the child.

259 2. The relative or nonrelative caregiver may not receive a
 260 Relative Caregiver Program payment if the parent or stepparent
 261 of the child resides in the home. However, a relative or
 262 nonrelative may receive the payment for a minor parent who is in
 263 his or her care and for the minor parent's child, if both the
 264 minor parent and the child have been adjudicated dependent and
 265 meet all other eligibility requirements. If the caregiver is
 266 currently receiving the payment, the payment must be terminated
 267 no later than the first day of the following month after the
 268 parent or stepparent moves into the home. Before the payment is
 269 terminated, the caregiver must be given 10 days' notice of
 270 adverse action.

271
 272 The placement may be court-ordered temporary legal custody to
 273 the relative or nonrelative under protective supervision of the
 274 department pursuant to s. 39.521(1)(b)3., or court-ordered
 275 placement in the home of a relative or nonrelative as a

Page 11 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

276 permanency option under s. 39.6221 or s. 39.6231 or under former
 277 s. 39.622 if the placement was made before July 1, 2006. The
 278 Relative Caregiver Program shall offer financial assistance to
 279 caregivers who would be unable to serve in that capacity without
 280 the caregiver payment because of financial burden, thus exposing
 281 the child to the trauma of placement in a shelter or in foster
 282 care.

283 Section 5. Section 414.14, Florida Statutes, is amended to
 284 read:

285 414.14 Public assistance policy simplification.—To the
 286 extent possible, the department shall align the requirements for
 287 eligibility under this chapter with the food assistance program
 288 and medical assistance eligibility policies and procedures to
 289 simplify the budgeting process and reduce errors. If the
 290 department determines that s. 414.075, relating to resources, or
 291 s. 414.085, relating to income, is inconsistent with federal law
 292 governing the food assistance program or medical assistance, and
 293 that conformance to federal law would simplify administration of
 294 the Temporary Cash Assistance Program or reduce errors without
 295 materially increasing the cost of the program to the state, the
 296 secretary of the department may propose a change in the resource
 297 or income requirements of the program by rule, providing that
 298 such change does not increase income or resource eligibility
 299 standards for the program.

300 Section 6. Subsection (2) of section 414.175, Florida

Page 12 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

301 Statutes, is amended to read:

302 414.175 Review of existing waivers.—

303 (2) The department shall review federal law, including
304 revisions to federal food assistance program requirements. If
305 the department determines that federal food assistance waivers
306 will further the goals of this chapter, including simplification
307 of program policies or program administration, the department
308 may obtain waivers if this can be accomplished within available
309 resources, providing that such waiver does not increase income
310 or resource eligibility standards for the food assistance
311 program above the levels set by federal regulations in 7 C.F.R.
312 s. 273.

313 Section 7. Section 414.315, Florida Statutes, is created
314 to read:

315 414.315 Food assistance program resource eligibility
316 standards.—

317 (1) The department shall seek federal approval to
318 implement the following resource eligibility standards that
319 apply to all initial applications or recertifications for food
320 assistance:

321 (a) A household that does not include an elderly or
322 disabled member may not exceed the maximum allowable resources,
323 including both liquid and nonliquid assets, of \$2,250.

324 (b) A household that includes one or more members who are
325 disabled or one or more members who are age 60 or over may not

Page 13 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

326 exceed the maximum allowable resources, including both liquid
327 and nonliquid assets, of \$3,250.

328 (2) The resource eligibility standards established in
329 subsection (1) are subject to any changes to the federal
330 regulations governing resource eligibility for food assistance
331 in 7 C.F.R. s. 273.8 and any applicable cost-of-living
332 adjustment.

333 (3) Unless expressly required by federal law, the
334 department shall obtain specific authorization from the
335 Legislature before seeking, applying for, accepting, or renewing
336 any waiver for food assistance which expands resource
337 eligibility beyond the limits established in subsection (1).

338 (4) This section does not apply to those households that
339 are federally required to be categorically eligible for food
340 assistance under 7 C.F.R. 273.2.

341 Section 8. Section 414.393, Florida Statutes, is created
342 to read:

343 414.393 Applicant asset verification.—Upon federal
344 approval to implement the resource eligibility standards in s.
345 414.315, the department shall implement an asset verification
346 service for the purpose of determining eligibility for the food
347 assistance program.

348 Section 9. Paragraphs (c) and (d) are added to subsection
349 (7) of section 445.004, Florida Statutes, and subsection (13) is
350 added to that section, to read:

Page 14 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

351 445.004 CareerSource Florida, Inc.; creation; purpose;
352 membership; duties and powers.—

353 (7) By December 1 of each year, CareerSource Florida,
354 Inc., shall submit to the Governor, the President of the Senate,
355 the Speaker of the House of Representatives, the Senate Minority
356 Leader, and the House Minority Leader a complete and detailed
357 annual report setting forth:

358 (c) For each local workforce development board,
359 participant statistics and employment outcomes, by program, for
360 individuals subject to mandatory work requirements due to
361 receipt of temporary cash assistance or food assistance under
362 chapter 414, including:

- 363 1. Individuals served.
- 364 2. Services received.
- 365 3. Activities in which individuals participated.
- 366 4. Types of employment secured.
- 367 5. Individuals securing employment but remaining in each
368 program.
- 369 6. Individuals exiting programs due to employment.
- 370 7. Employment status at 3 months, 6 months, and 12 months
371 after exiting the program, for the past 3 years.

372 (d) Interim outcomes of any pilot program implemented by a
373 local workforce development board selected pursuant to
374 subsection (13).

375 (13) The Legislature finds that some mandatory work

Page 15 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

376 registrants in the Temporary Cash Assistance Program face
377 significant barriers to employment, which must be addressed with
378 services beyond those offered under a traditional workforce
379 program. To address this problem, CareerSource Florida, Inc., in
380 consultation with the department, shall implement a pilot
381 program to increase unsubsidized employment and earned income
382 among such registrants while reducing their reliance on public
383 assistance. The pilot program may not serve registrants who are
384 assessed as work ready or who do not face significant barriers
385 to employment.

386 (a) For the purposes of this subsection, "significant
387 barriers to employment" means at least one critical barrier or
388 three or more stand-alone barriers.

389 1. "Critical barriers" include substance abuse, mental
390 illness, physical or mental disability, domestic violence,
391 homelessness, and a criminal record affecting employment.

392 2. "Stand-alone barriers" include significant job skill
393 deficiencies; significant soft-skill deficiencies, such as
394 communication, time management, and problem-solving skills;
395 child welfare system involvement; and a negative or nonexistent
396 employment history.

397 (b) CareerSource Florida, Inc., in consultation with the
398 department, shall contract with a vendor by October 31, 2017, to
399 develop the pilot program according to the following guidelines:

- 400 1. The vendor must have expertise in the design and

Page 16 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

401 development of workforce programs.

402 2. The program design shall be based on the best available
 403 research and shall include, at a minimum:

404 a. A comprehensive assessment to identify significant
 405 barriers to employment, which shall be updated on an ongoing
 406 basis. Such an assessment may collect information about the
 407 registrant's educational attainment, level of literacy and
 408 numeracy, basic skills, work experience, receipt of public
 409 benefits, and other indicators of significant barriers.

410 b. An individual responsibility plan based on the
 411 assessment, which includes a comprehensive service strategy to
 412 address barriers to employment, whether sequentially or
 413 simultaneously.

414 c. Intensive case management, including, but not limited
 415 to, ongoing one-on-one guidance, motivation, and support for
 416 registrants by assessing their needs and barriers, identifying
 417 resources, and advising on career and training opportunities.
 418 Intensive case management also includes collaborative work with
 419 community partners to provide comprehensive services to
 420 registrants which are designed to address their barriers and
 421 achieve program goals.

422 3. The program may include other elements to address
 423 significant barriers, such as a combination of job search
 424 assistance, basic skills training, vocational education,
 425 strategies that connect registrants to relevant career

Page 17 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

426 opportunities by supporting their efforts to obtain educational
 427 certificates or industry certification, and transitional
 428 employment subsidies to achieve the desired improvements in
 429 employment and earnings.

430 (c) CareerSource Florida, Inc., in consultation with the
 431 department, shall select at least three local workforce boards
 432 to conduct the pilot program based on a board's:

433 1. Commitment to effectively serve the target population;

434 2. Established record of innovation in the delivery of
 435 workforce services, preferably to the target population;

436 3. Existing strong community partnerships, including
 437 partnerships with nonprofit entities and community colleges, to
 438 provide workforce services; and

439 4. Commitment to implement the program for the target
 440 population while continuing to serve other Temporary Cash
 441 Assistance Program mandatory work registrants.

442 (d) The local workforce boards selected for the pilot
 443 program shall contract with vendors to implement the program.
 444 The local workforce board shall give preference to vendors with
 445 a demonstrated commitment to innovation in providing workforce
 446 services or in serving populations with significant barriers.

447 (e) CareerSource Florida, Inc., shall submit a report to
 448 the Governor, the President of the Senate, and the Speaker of
 449 the House of Representatives by December 15, 2020. The report
 450 shall include the program design; participating entities;

Page 18 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

451 participant demographics, including, but not limited to,
 452 barriers identified; and the case management processes,
 453 assessment processes, and services provided to participants, as
 454 compared to those available under the local workforce board's
 455 traditional workforce program. The report shall also include an
 456 analysis of the effect of the program on participants' barriers
 457 to employment, employment outcomes, household income, reliance
 458 on public assistance, and other measures of household well-being
 459 and self-sufficiency.

460 Section 10. (1) For fiscal year 2017-2018, the sum of
 461 \$3,342,525 in nonrecurring funds is appropriated from the
 462 Federal Grants Trust Fund to the Department of Children and
 463 Families to contract with a vendor to develop an asset
 464 verification service for food assistance programs pursuant to s.
 465 414.393, Florida Statutes, as created by this act, and the sum
 466 of \$300,000 in nonrecurring funds is appropriated from the
 467 Federal Grants Trust Fund to the Department of Children and
 468 Families to perform the technology modifications necessary to
 469 implement the asset verification service.

470 (2) This section shall take effect July 1, 2017, if
 471 CS/CS/CS/HB 581 or similar legislation relating to an asset
 472 verification service for food assistance programs is not adopted
 473 during the same legislative session or an extension thereof and
 474 fails to become a law.

475 Section 11. (1) For fiscal year 2017-2018, the sum of

Page 19 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

476 \$500,000 in nonrecurring funds is appropriated from the Welfare
 477 Transition Trust Fund to the Department of Economic Opportunity
 478 for distribution to CareerSource Florida, Inc., to contract for
 479 development of a program to serve temporary cash assistance work
 480 registrants with significant barriers to employment pursuant to
 481 this act, including, but not limited to, providing the initial
 482 program design, evaluation design, training curricula
 483 development and delivery of training, implementation oversight,
 484 development of informational materials for participants, and
 485 technical assistance; and for distribution to selected local
 486 workforce boards for startup expenses incurred by vendors
 487 implementing the program, including, but not limited to,
 488 information technology updates, program coordination, and staff
 489 training. Case management and direct services for all temporary
 490 cash assistance recipients shall be provided within current
 491 resources.

492 (2) This section shall take effect July 1, 2017, if
 493 CS/CS/CS/HB 581 or similar legislation relating to public
 494 assistance programs is not adopted during the same legislative
 495 session or an extension thereof and fails to become a law.

496 Section 12. For fiscal year 2017-2018, the sum of \$952,360
 497 in nonrecurring funds from the Federal Grants Trust Fund is
 498 appropriated to the Department of Children and Families for the
 499 purpose of performing the technology modifications necessary to
 500 implement changes to the disbursement of temporary cash

Page 20 of 21

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hb0023-03-e1



CS/CS/HB 23, Engrossed 1

2017

501 assistance benefits and the replacement of electronic benefits
502 transfer cards pursuant to this act.
503 Section 13. This act shall take effect July 1, 2017.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: HB 7007

INTRODUCER: Health and Human Services Committee and Representative Brodeur

SUBJECT: State Group Insurance Program

DATE: April 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Ferrin	GO	Fav/8 amendments
2.	McVaney	Hansen	AP	Pre-meeting

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

Sections I through VIII of the analysis discuss HB 7007, as passed by the House of Representatives. Section IX describes the amendments adopted by the Senate Committee on Governmental Oversight and Accountability.

HB 7007 amends provisions of the State Group Health Insurance Program (Program). The bill, for plan year 2020 and thereafter, requires the Department of Management Services (DMS) to offer four health insurance coverage levels of at least a certain actuarial value under the Program as follows: Platinum – 90 percent, Gold – 80 percent, Silver – 70 percent, and Bronze – 60 percent. The state will make a defined contribution for each employee toward the cost of purchasing a health plan. If the state's contribution is more than the premium cost of the health plan selected by the employee, the bill specifies that the employee will be permitted to allocate unused state health insurance contributions to other benefits or as salary. The bill requires the DMS to recommend contribution policies and employee education strategies regarding the coverage levels and other benefit alternatives.

Beginning with plan year 2018, the bill permits the DMS to procure new types of health care products and services. For plan year 2018, the bill also requires the DMS to contract with an entity to provide enrollees with an online cost comparison for health care services and providers and at least one entity that provides comprehensive pricing and inclusive services for surgery and other medical procedures. Enrollees may access these services, and the bill provides for the sharing of any savings. The DMS must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on certain criteria, including cost-savings to both

enrollees and the state resulting from implementation of the Internet-based platform and the comprehensive services.

The bill requires the DMS to competitively procure an independent benefits consultant to assist the agency in developing a plan for implementation of the new benefit levels in the Program. This plan must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2019.

By July 1, 2017, the DMS must submit proposed enrollee premium rates that reflect the differences in costs to the Program for each of the health maintenance organizations and the preferred provider organization plan options for the 2018 plan year to the Legislative Budget Commission for review and approval.

The bill appropriates \$151,216 in recurring funds and \$507,546 in nonrecurring funds from the State Employees Health Insurance Trust Fund to DMS and authorizes 2 full-time equivalent positions and \$120,000 of associated salary rate for the 2017-2018 fiscal year to implement the act.

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

II. Present Situation:

State Employee Health Insurance Program

The State Group Insurance Program (Program) is created by s. 110.123, F.S., and the DMS, through the Division of State Group Insurance (DSGI), administers the Program.¹ The Program is an optional benefit offered as part of the total compensation package for all state employees² including all state agencies, state universities, the court system, and the Legislature. The Program is governed by the Internal Revenue Code, federal laws, such as the Patient Protection and Affordable Care Act, Health Insurance Portability and Accountability Act, Consolidated Omnibus Budget Reconciliation Act, Medicare, and other provisions of law.

The DMS's projected health care and administrative spend for state fiscal year 2016-2017 is approximately \$2.3 billion.³ This amount is broken down into the following cost categories: medical (72%), prescription drugs (8.8%), and administration of the Program (3%).

The Program qualifies as a "cafeteria plan,"⁴ which offers flexible benefits under Section 125 of the Internal Revenue Code and allows employees to choose from a "menu" of benefits offered by

¹ Chapter 60P, Florida Administrative Code, also governs the Program. The DMS has limited rule-making authority.

² See Section 110.123(2)(b), F.S. Surviving spouses of deceased state officers and employees, retired state officers and employees, individuals with continuation coverage, e.g. COBRA, and eligible dependents are eligible to participate in the Program.

³ Department of Management Services, *Overview of the State Group Health Insurance Program*, presentation to the Senate Appropriations Subcommittee on General Government on February 15, 2017 (Copy on file with the Senate Governmental Oversight and Accountability Committee).

⁴ 26 USC sec. 125 requires that a cafeteria plan allow its members to choose between two or more benefits "consisting of cash and qualified benefits." The proposed regulations define "cash" to include a "salary reduction arrangement" whereby

the employer, including medical, accident, disability, vision, dental and group term life insurance. A cafeteria plan reduces both the employer's and employee's tax burden. Contributions by the employer are not subject to the employer social security contribution, and contributions made by the employee are not subject to federal income or social security taxes. In Florida, the Program includes health, life, dental, vision, disability, and other supplemental insurance benefits.

Health Plan Options

The Program offers four types of health plans from which an eligible employee may choose: a standard statewide Preferred Provider Organization (PPO) Plan, a Health Investor PPO Plan, a standard Health Maintenance Organization (HMO) Plan, or a Health Investor HMO Plan.

The PPO plan is the statewide, self-insured health plan administered by Florida Blue. The administrator is responsible for processing health claims, providing access to a Preferred Provider Care Network, and managing customer service, utilization review, and case management functions.

The standard HMO plan is an insurance arrangement in which the state has contracted with multiple statewide and regional HMOs. Two of the HMOs (Capital Health Plan and Florida Health Plans) operate on a traditional fully insured model in which the HMOs assume all financial risk for the covered benefits. The other three (Aetna, AvMed, and United Health Care) operate on a self-insured model under which the state bears the risk of the medical claims.

Additionally, the Program offers two high-deductible health plans (HDHP)⁵ with health savings accounts (HSAs).⁶ The Health Investor PPO Plan is the statewide HDHP with an integrated HSA. It is also administered by Florida Blue. The Health Investor HMO Plan is an HDHP with an integrated HSA in which the state has contracted with multiple state and regional HMOs. Both have an individual deductible of \$1,300 for individual and \$2,600 for family for network providers.⁷ The state makes a \$500 per year contribution to the HSA for single coverage and a \$1,000 per year contribution for family coverage. The employee may make additional annual contributions⁸ to a limit of \$3,400 for single coverage and \$6,750 for family coverage. Both the employer and employee contributions are not subject to federal income tax on the employee's income. Unused funds roll over automatically every year. An HSA is owned by the employee and is portable.

salary is deducted pre-tax to pay the employee's share of the insurance premium. Since the state program allows a "salary reduction arrangement", the program qualifies as a cafeteria plan. 26 C.F.R. ss. 1.125-1, et seq.

⁵ High-deductible health plans with linked HSAs are also called consumer-directed health plans (CDHP) because costs of health care are more visible to the enrollee.

⁶ 26 USC sec. 223; To qualify as a high-deductible plan, the annual deductible must be at least \$1,300 for single plans and \$2,600 for family coverage, but annual out-of-pocket expenses cannot exceed \$6,550 for individual and \$13,100 for family coverage. These amounts are adjusted annually by the IRS.

⁷ Internal Revenue Service, Revenue Procedure 2016-28, April 29, 2016 (setting contribution limits for 2017 calendar year) available at <https://www.irs.gov/pub/irs-drop/rp-16-28.pdf> (last viewed on April 21, 2017).

⁸ *Id.* The IRS annually sets the contribution limit as adjusted by inflation.

Currently, the Program offers flexible spending accounts (FSAs)⁹ as an optional benefit for employees. The FSA is funded through pre-tax payroll deductions from the employee's salary.¹⁰ The funds can be used to pay for medical expenses that are not covered by the employees' health plan. Prior to 2013, there was no limit on the contribution to a FSA; however, it is now limited to \$2,600¹¹ and subsequently adjusted for inflation. Unlike the HSA, the FSA is a "use it or lose it" arrangement.¹² If the employee does not annually use the contributions to the FSA, the contributions are forfeited.

Health reimbursement arrangements (HRAs) are defined contribution benefits established by an employer for their employees. Each year, an employer determines a specified amount, or a defined contribution benefit, of pre-tax dollars to assist employees with medical expenses. The employer can determine minimum and maximum contribution amounts; there are no federal limits. Typically associated with an HDHP, an HRA is entirely funded by the employer and provides tax-free reimbursements to employees for medical expenses.¹³ Unlike a FSA, an HRA is not a "use it or lose it" arrangement, but the employer may cap the rollover amount. The state program does not currently offer HRAs.

The following charts illustrate the benefit design of each of the plan choices and the distinctions between FSAs, HSAs, and HRAs:

⁹ Section 125 I.R.C.; see *IRS Publication 969* (2016) available at <https://www.irs.gov/pub/irs-pdf/p969.pdf> (last viewed on April 21, 2017).

¹⁰ Employers are also allowed to contribute to FSAs.

¹¹ Internal Revenue Service, *Revenue Procedure 2016-55*, October 25, 2016 (setting contribution limit for 2017 calendar year), available at <https://www.irs.gov/pub/irs-drop/rp-16-55.pdf> (last viewed on April 21, 2017).

¹² Beginning in 2013, an employee may carryover up to \$500 into the next calendar year.

¹³ An HRA can only be used for qualified medical expenses defined under s. 213(d), I.R.C., including health insurance and long-term care insurance.

	HMO Standard	PPO Standard	
	Network Only	Network	Out-of-Network
Deductible	None	\$250 \$500 Single Family	\$750 \$1,500 Single Family
Primary Care	\$20 copayment	\$15 copayment	40% of out-of-network allowance plus the amount between the charge and the allowance
Specialist	\$40 copayment	\$25 copayment	
Urgent Care	\$25 copayment	\$25 copayment	
Emergency Room	\$100 copayment	\$100 copayment	
Hospital Stay	\$250 copayment	20% after \$250 copayment	40% after \$500 copayment plus the amount between the charge and the allowance
Generic Preferred Non-Preferred Prescriptions	\$7 \$30 \$50 Retail	\$7 \$30 \$50 Retail	Pay in full, file claim
	\$14 \$60 \$100 Mail Order	\$14 \$60 \$100 Mail Order	
Out-of-Pocket Maximum	\$1,500 \$3,000 Single Family	\$2,500 \$5,000 (coinsurance only) Single Family	

	PPO and HMO Health Investor	
	Network	Out-of-Network (PPO Only)
Deductible	\$1,300 \$2,600 Single Family	\$2,500 \$5,000 Single Family
Primary Care	After meeting deductible, 20% of network allowed amount	After meeting deductible, 40% of out-of-network allowance plus the amount between the charge and the allowance
Specialist		
Urgent Care		After meeting deductible, 20% of out-of-network allowance
Emergency Room		
Hospital Stay		After meeting deductible, 40% after \$1,000 copayment plus the amount between the charge and the allowance
Generic Preferred Non-Preferred Prescriptions	After meeting deductible , 30% 30% 50% Retail and Mail Order	Pay in full, file claim
Out-of-Pocket Maximum	\$3,000 \$6,000 (coinsurance only) Single Family	\$7,500 \$15,000 (coinsurance only) Single Family

	FSA	HSA	HRA
Who funds the account?	Employee and employer (optional)	Employee, employer, and other individuals	Employer
How is it funded?	Employee payroll deduction; employer direct contribution - money is held by employer in "fund"	Cash contributions to bank account owned by employee	Employer pays up to promised amount
Account Owner	Employer	Employee	Employer
Contribution Limits	\$2,600 annually	Single - \$3,400 Family - \$6,750 Over 55 - additional \$1,000 for single coverage	Set by employer
Rollover of Funds?	Up to \$500 (federal law)	Yes	Yes, as determined by employer
Medical Expenses Allowed	IRC 213(d) expenses; ¹⁴	IRC 213(d) expenses	Post-tax health insurance premiums and IRC 213(d) expenses
High Deductible Health Plan Required?	No	Yes Minimum deductible: Single - \$1,300 Family - \$2,600 Max out-of-pocket: Single - \$6,550 Family - \$13,100	No

The PPO and HMO plans provide similar coverage, including prescription drug benefits, with the main difference being member cost share. The current standard PPO plan has higher member cost share (deductibles, copayments and coinsurance); while the current standard HMO plans have a lower member cost share with copayments only.

The high deductible plans have the highest member cost share (high deductible and coinsurance only) and meet the federal requirement of a minimum value plan that is affordable, as well as the Internal Revenue Code requirements that allow enrollment in a HSA. The annual contribution from the State Employee Health Insurance Trust Fund to an employee's HSA is \$500 for single coverage and \$1,000 for family coverage.¹⁵ These contributions are funded as part of the employer paid premium for health insurance coverage and are made in equal monthly installments throughout the plan year. The participant may draw upon these funds to meet qualified medical expenses.¹⁶

DMS-contracted service providers and fully insured HMOs have established networks of contracted physicians, hospitals, clinics, surgical centers and other appropriately licensed health

¹⁴ Section 213(d), I.R.C., permits the deduction of expenses paid for medical care of the taxpayer, his or her spouse, or a dependent. Medical care includes amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease; transportation necessary for medical care; qualified long-term care services; and health insurance or long-term care insurance.

¹⁵ Section 110.123(12), F.S., provides that for the 2014-2015 fiscal year and thereafter, the state's contribution from the State Employee Health Insurance Trust Fund into the member's health savings account shall be set in the annual General Appropriations Act.

¹⁶ 26 U.S.C. s. 213(d).

care providers. The DMS relies upon the clinical expertise provided through its contracts with the service providers to determine medical necessity, process claims and appeals, develop medical coverage guidelines, and provide other clinical review and support as needed.

The DMS is not a party to the private business contracts between the service providers and their network providers. Negotiated network provider contracts, including fee schedules, network discounts and similar financial terms, are considered proprietary and trade secret by the DMS's service providers and are specifically protected as such under s. 110.123(5)(a), F.S., and ch. 119, F.S., as well as in contracts between the service providers and their network health care providers.

Health plan documents that describe the summary of benefits and coverages are approved annually in the General Appropriations Act. Annual revisions to such documents only include clarifications or changes consistent with new legislation. The DMS is not authorized to change covered benefits.

Enrollees are allowed to elect only one health insurance plan under the Program.

Plan Enrollment

The Program has 367,953 covered lives and 175,944 policyholders.¹⁷ Of the participants in the program, 54.6 percent are from agencies, 24.1 are from universities, 21 percent are retirees and other former employees, and .3 percent are from statutorily defined agencies.¹⁸ Currently, 52.9 percent of enrollees who chose the standard plan selected an HMO while 47.1 percent chose the PPO.¹⁹ Only 2 percent of enrollees chose either HDHP.²⁰ During the open enrollment period for 2015, PPO enrollment increased slightly, by 0.46 percent, and HMO enrollment decreased by 3.14 percent.²¹

Contribution Tiers and Amounts

The Program is considered employer-sponsored since the state contracts with providers and contributes a substantial amount on behalf of the employee toward the cost of the insurance premium. The state's employer contribution is part of a state employee's overall compensation. The state program is a defined-benefit program. In a defined-contribution program, the employer pays a set amount toward the monthly premium and the employee pays the remainder. The following chart²² shows the monthly contributions of the state and the employee to employee health insurance premium.

¹⁷ Department of Management Services, Email dated April 21, 2017 (Copy on file with the Senate Governmental Oversight and Accountability Committee).

¹⁸ See *supra* note 3.

¹⁹ See *supra* note 17.

²⁰ *Id.*

²¹ *Id.*

²² Department of Management Services, Premium Rate Table, Effective Jan. 2017 for Feb. 2017 coverage, available at http://mybenefits.myflorida.com/content/download/130052/808071/DSGI_-_Premium_Table_Effective_January_2017_for_February_2017_Coverage.pdf (last visited on April 20, 2017).

Subscriber Type	Tier or Coverage Type	Standard Plans (PPO and HMO)			Health Investor Plans (PPO and HMO)		
		Employer	Employee	Total	Employer*	Employee	Total
Career Service/ OPS	Single	\$624.84	\$50.00	\$692.84	\$624.84	\$15.00	\$657.84
	Family	\$1,379.60	\$180.00	\$1,559.60	\$1,379.60	\$64.30	\$1,443.90
	Spouse ²³	\$1,529.60	\$30.00	\$1,559.60	\$1,413.92	\$30.00	\$1,443.92
SES/ SMS/ Others	Single	\$684.50	\$8.34	\$692.84	\$649.50	\$8.34	\$657.84
	Family	\$1,529.60	\$30.00	\$1,559.60	\$1,413.90	\$30.00	\$1,443.90
*Includes employer tax-free Health Savings Account (HSA) contribution - \$41.66 and \$83.33 per month (\$500 and \$1,000 annually) for single and family coverage, respectively.							

Cadillac Tax

Section 9001 of the Affordable Care Act specifies an excise tax (“Cadillac Tax”) on high cost employer-sponsored health coverage. Beginning with taxable year 2020, the tax will be equal to 40 percent of the amount considered to be an “excess benefit,” which is defined as the difference between the cost of health benefits and an applicable annual limitation threshold set by the federal legislation, with allowable health cost adjustments to the threshold. If the total cost of health benefits (not premium, but actual cost) for any plans exceed the federal thresholds, the state will be required to pay this tax for each employee enrolled in those plans.

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., regarding the state group insurance program.

The term “plan year” is defined as a calendar year.

This section expands the scope of the state group insurance program to include other benefits authorized by law.

For plan year 2020 and thereafter, the state will make a defined contribution for each employee toward the cost of purchasing a health plan. If the state’s contribution is more than the premium cost of the health plan selected by the employee, subject to any federal limitation, the bill provides that the employee may elect to have the balance:

- Credited to the employee’s FSA;
- Credited to the employee’s HSA;
- Used to purchase additional benefits offered through the state group insurance program; or
- Used to increase the employee’s salary.

For the 2020 plan year and each plan year thereafter, health plans must be offered in the following benefit levels:

- Platinum level, which shall have an actuarial value of at least 90 percent.
- Gold level, which shall have an actuarial value of at least 80 percent.
- Silver level, which shall have an actuarial value of at least 70 percent.

²³ The Spouse Program provides discounted rates for family coverage when both spouses work for the state.

- Bronze level, which shall have an actuarial value of at least 60 percent.

In consultation with the independent benefits consultant described in s. 110.12304, F.S., the DMS must develop a plan for implementation of the benefit levels described above. The plan must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2019, and include recommendations for:

- Employer and employee contribution policies;
- Steps necessary for maintaining or improving total employee compensation levels when the transition is initiated; and
- An education strategy to inform employees of the additional choices available in the state group insurance program.

Section 2 creates s. 110.12303, F.S.

Beginning with the 2018 plan year, this section allows the DMS to offer the following products and services, in addition to the comprehensive package of health insurance and other benefits required or authorized to be included in the state group insurance program:

- Prepaid limited health service organizations authorized pursuant to part I of chapter 636, F.S.;
- Discount medical plan organizations authorized pursuant to part II of chapter 636, F.S.;
- Prepaid health clinics licensed under part II of chapter 641, F.S.;
- Licensed health care providers, including hospitals and other health facilities, health care clinics, and health professionals, who sell service contracts and arrangements for a specified amount and type of health services;
- Provider organizations, including service networks, group practices, professional associations, and other incorporated organizations of providers, who sell service contracts and arrangements for a specified amount and type of health services;
- Entities that provide specific health services in accordance with applicable state law and sell service contracts and arrangements for a specified amount and type of health services;
- Entities that provide health services or treatments through a bidding process;
- Entities that provide health services or treatments through the bundling or aggregating of health services or treatments; and
- Entities that provide other innovative and cost-effective health service delivery methods.

Next, the DMS is required to contract with at least one entity that provides comprehensive pricing and inclusive services for surgery and other medical procedures, which may be accessed at the option of the enrollee. The contract must require the entity to:

- Have procedures and evidence-based standards to ensure the inclusion of only high-quality health care providers;
- Provide assistance to enrollees in accessing and coordinating care;
- Provide cost savings to the state group insurance program to be shared with both the state and the enrollee. Cost savings payable to an enrollee may be:
 - Credited to the enrollee's flexible spending account;
 - Credited to the enrollee's health savings account;
 - Credited to the enrollee's health reimbursement account; or

- Paid as additional health plan reimbursements not exceeding the amount of the employee's out-of-pocket medical expenses; and
- Provide an educational campaign for enrollees to learn about the services offered by the entity.

The DMS is required to report on or before January 15 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level and cost-savings to both the enrollee and the state resulting from the any contracts described in this subsection.

Additionally, the DMS must contract with an entity that provides enrollees with online information on the cost and quality of health care services and providers, allows an enrollee to shop for health care services and providers, and rewards the enrollee by sharing any savings generated by the enrollee's choice of services or providers. The contract requires the entity to:

- Establish an Internet-based, consumer-friendly platform that educates and informs enrollees about the price and quality of health care services and providers, including the average amount paid in each county for health care services and providers. The average amounts paid for such services and providers may be expressed for service bundles, which include all products and services associated with a particular treatment or episode of care, or for separate and distinct products and services;
- Allow enrollees to shop for health care services and providers using the price and quality information provided on the Internet-based platform;
- Permit a certified bargaining agent of state employees to provide educational materials and counseling to enrollees regarding the Internet-based platform;
- Identify the savings realized to the enrollee and state if the enrollee chooses high-quality, lower-cost health care services or providers, and facilitate a shared savings payment to the enrollee. The amount of shared savings shall be determined by a methodology approved by the DMS and shall maximize value-based purchasing by enrollees. The amount payable to the enrollee may be:
 - Credited to the enrollee's FSA;
 - Credited to the enrollee's HSA;
 - Credited to the enrollee's health reimbursement account; or
 - Paid as additional health plan reimbursements not exceeding the amount of the enrollee's out-of-pocket medical expenses.

Furthermore, the DMS is required to report on or before January 1 of 2019, 2020, and 2021, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level, amount paid to enrollees, and cost-savings to both the enrollees and the state resulting from implementation of this subsection.

Section 3 creates s. 110.12304, F.S., requiring the DMS to competitively procure an independent benefits consultant.

The independent benefits consultant may not:

- Be owned or controlled by an HMO or insurer;
- Have an ownership interest in an HMO or insurer; or

- Have a direct or indirect financial interest in an HMO or insurer.

The independent benefits consultant must have substantial experience in consultation and design of employee benefit programs for large and public employers, including plans that qualify as cafeteria plans pursuant to s. 125 of the Internal Revenue Code of 1986.

The independent benefits consultant must:

- Provide an ongoing assessment of trends in benefits and employer-sponsored insurance that affect the state group insurance program;
- Conduct a comprehensive analysis of the state group insurance program, including available benefits, coverage options, and claims experience;
- Identify and establish appropriate adjustment procedures necessary to respond to any risk segmentation that may occur when increased choices are offered to employees;
- Assist the DMS with the submission of any necessary plan revisions for federal review;
- Assist the DMS in ensuring compliance with applicable federal and state regulations;
- Assist the DMS in monitoring the adequacy of funding and reserves for the state self-insured plan; and
- Assist the DMS in preparing recommendations for any modifications to the state group insurance program which shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1 of each year.

Section 4 creates an unnumbered section of law authorizing the DMS to determine and recommend premiums for enrollees that reflect the actual differences in costs to the state group insurance program for each HMO and the PPO plan options offered in the state group insurance program for both self-insured and fully insured plans. The premium alternatives for the plan options must reflect the costs to the state group insurance program for both medical and prescription drug benefits.

By July 1, 2017, the DMS must submit the proposed enrollee premium rates for the 2018 plan year to the Legislative Budget Commission (LBC) for review and approval. If the LBC does not approve the proposed rates, the rates established in the 2017-2018 General Appropriations Act will apply. The premium rates for employers shall be the same as those established for the state group insurance program in the General Appropriations Act for the 2017-2018 fiscal year.

Section 5 appropriates \$151,216 in recurring funds and \$507,546 in nonrecurring funds from the State Employees Health Insurance Trust Fund to DMS and authorizes 2 full-time equivalent positions and \$120,000 of associated salary rate for the 2016-2017 fiscal year to implement the act.

The recurring funds appropriated shall be allocated to specified appropriation categories within the Insurance Benefits Administration Program, as follows:

- \$150,528 in Salaries and Benefits; and
- \$688 in Special Categories Transfer to DMS-Human Resources Purchased per Statewide Contract.

The recurring funds appropriated shall be allocated to specified appropriation categories, as follows:

- \$500,000 in Special Categories Contracted Services; and
- \$7,546 in Expenses.

Section 6 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 4 directs the Department of Management Services to determine and recommend premiums to be paid by enrollees for plan year 2018. These premiums are supposed to reflect the actual differences in costs to the program for each of the plan options. The premium alternatives developed by the department must be submitted to the Legislative Budget Commission for review and approval. If the LBC does not approve the rates, the rates provided in the General Appropriations Act (GAA) for fiscal year 2017-18 will apply.

The process created in section 4 may be an unlawful delegation of authority. The bill recognizes that the full legislature will have established lawful premium rates in the GAA. This bill then directs DMS to determine new rates without any standards to guide the agency's actions (and the responsibility for the department appears to be more than a mere calculation because the section refers to "premium alternatives." The bill goes further by allowing the LBC (14 members of the legislature) to substitute its decision for the lawfully enacted rates. Again, the bill does not provide any guidelines to LBC on the basis for approving or rejecting the recommended rates.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The impact to private sector health care providers is indeterminate. The impact to members participating in the State Group Insurance Program is indeterminate. If the process established in section 4 is implemented and the LBC approves new enrollee contribution rates, the charts below illustrate the level of costs that may be shifted to the participants in the program, particularly during the 2018 plan year, unless benefits are reduced or state contributions are increased.

Chart 1 below shows the costs per subscriber for all the costs incurred during the 2016 plan year for each of the plans in the program.

Chart 1. COST PER SUBSCRIBER - MEDICAL, PHARMACY, ASO, AND CAPITATION							
	ACTIVE SINGLE	ACTIVE FAMILY	Early Retiree SINGLE	Early Retiree Family	MED I	MED II	MED III
AETNA	7,038.59	18,913.25	15,942.74	19,171.20	8,980.62	29,171.57	15,094.75
AVMED	8,432.01	19,924.35	14,891.37	29,674.66	6,790.98	28,000.30	13,167.33
UNITED	6,453.35	21,084.36	16,473.73	52,862.60	12,761.51	28,428.26	8,961.08
FLORIDA BLUE	6,713.73	17,978.75	11,556.46	23,033.76	6,736.43	21,001.26	12,329.61
CHP	7,548.53	17,277.26	8,786.30	20,138.32	3,315.31	10,727.04	6,624.00
FHCP	8,530.06	19,078.70	8,426.48	18,613.46	708.00	8,272.92	1,416.00
FI HMO	7,600.07	17,360.35	8,774.50	20,110.21	3,219.55	10,647.64	6,581.26
SI HMO	8,175.69	19,919.54	15,123.28	29,965.89	7,285.08	28,173.74	13,221.97
PPO	6,713.73	17,978.75	11,556.46	23,033.76	6,736.43	21,001.26	12,329.61

Chart 2 shows the premiums that were applicable during the same time frame as the costs shown above (plan year 2016).

Chart 2. DECEMBER 2015 PREMIUM CONTRIBUTION RATES							
	ACTIVE SINGLE	ACTIVE FAMILY	Early Retiree SINGLE	Early Retiree Family	MED I	MED II	MED III
PPO & SI HMO	7,698.24	17,328.72	7,698.24	17,328.72	4,315.32	12,442.80	8,630.64
CHP	7,698.24	17,328.72	7,698.24	17,328.72	3,312.00	10,727.04	6,624.00
FHCP	7,698.24	17,328.72	7,698.24	17,328.72	708.00	8,272.92	1,416.00

Chart 3 shows the costs that are not funded by premium payments. Note that the negative amounts indicate that costs exceed premiums. The positive amounts indicate that premiums exceed costs.

Chart 3. NET OF PREMIUM CONTRIBUTION AND PSPM COSTS							
	ACTIVE SINGLE	ACTIVE FAMILY	Early Retiree SINGLE	Early Retiree Family	MED I	MED II	MED III
AETNA	659.65	(1,584.53)	(8,244.50)	(1,842.48)	(4,665.30)	(16,728.77)	(6,464.11)
AVMED	(733.77)	(2,595.63)	(7,193.13)	(12,345.94)	(2,475.66)	(15,557.50)	(4,536.69)
UNITED	1,244.89	(3,755.64)	(8,775.49)	(35,533.88)	(8,446.19)	(15,985.46)	(330.44)
FLORIDA BLUE	984.51	(650.03)	(3,858.22)	(5,705.04)	(2,421.11)	(8,558.46)	(3,698.97)
CHP	149.71	51.46	(1,088.06)	(2,809.60)	(3.31)	-	-
FHCP	(831.82)	(1,749.98)	(728.24)	(1,284.74)	-	-	-

C. Government Sector Impact:

This bill provides funding as follows for Fiscal Year 2016-2017:

- \$151,216 in recurring funds from the State Employees' Health Insurance Trust Fund;
- \$507,546 in non-recurring funds from the State Employees' Health Insurance Trust Fund; and
- Two FTEs with \$120,000 in associated salary rate.

The state's personnel system, People First, would have to be customized to accommodate the changes as described in the bill. These changes would require an overhaul of the front-end election process to support the various breakouts described in the bill and to ensure subscribers elect sufficient coverage to meet the federal minimum coverage requirements; would require a redesign of the electronic benefits and confirmation statements; and would require all insurance and payroll related interface files, payment detail files and reports to be updated and thoroughly tested with the insurance providers, state agencies and the employers' payroll systems. These subsidiary systems would also have to be updated to accept these changes. The fiscal impact associated with making these changes has not been determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 112.0801(1), F.S., requires public employers to offer to retirees the same health and hospitalization coverage as is offered to employees at a premium cost of no more than the premium cost applicable to active employees. However, s. 110.123(4)(e), F.S., states that no state contribution for the cost of any part of the premium shall be made for retirees or surviving spouses for any type of coverage under the state group insurance program. Accordingly, it appears that retirees will have access to the various coverages and plans offered as part of the state group insurance program but will not be able to receive contributions to FSAs, HSAs, or other reimbursements for health care costs.

VIII. Statutes Affected:

This bill substantially amends section 110.123 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 110.12303 and 110.12304.

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

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

None.

B. Amendments:

Barcode 691160 by Governmental Oversight and Accountability on April 24, 2017:

- Defines the term “actuarial value”, and requires it to be calculated in accordance with the federal guidelines used in healthcare exchanges.

Barcode 611870 by Governmental Oversight and Accountability on April 24, 2017:

- Requires that plans or coverages offered by the Division of State Group Insurance to be consistent with the provisions of s. 125 of the Internal Revenue Code regarding cafeteria plans.

Barcode 919800 by Governmental Oversight and Accountability on April 24, 2017:

- Same as above, but made in different section of the bill.

Barcode 612856 by Governmental Oversight and Accountability on April 24, 2017:

- Makes technical edit changing “coverage level” to “benefit level”.

Barcode 969732 by Governmental Oversight and Accountability on April 24, 2017:

- Includes an actuarial study of the trends, savings, and costs over the next 15 years associated with the implantation of the benefit levels for employers and enrollees with the implementation plan (for the metals) due January 1, 2019;
- Requires that recommendations for implementation include steps necessary for maintaining or improving total employee compensation levels; and
- Changes the term “employee” to “enrollee” regarding recommended contributions since the plans are required to be offered to retirees.

Barcode 964332 by Governmental Oversight and Accountability on April 24, 2017:

- Requires costs savings realized by using bundled services be shared equally between the state and the enrollee.

Barcode 538286 by Governmental Oversight and Accountability on April 24, 2017:

- Changes due date for report on the participation level and cost-savings of new programs from January 1 to April 1; and
- Changes due date for report on the online portal from January 1 to April 1 of every year.

Barcode 203288 by Governmental Oversight and Accountability on April 24, 2017:

- Requires the Legislative Budget Commission to approve premium rates no later than August 1, 2017.



238436

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment

Delete line 557
and insert:
enrollees that reflect the actuarial differences in costs to the

HB 7007

2017

1 A bill to be entitled
 2 An act relating to state group insurance program;
 3 amending s. 110.123, F.S.; revising applicability of
 4 certain definitions; defining the term "plan year";
 5 authorizing the state insurance program to include
 6 additional benefits; authorizing an employee to use a
 7 specified portion of the state's contribution to
 8 purchase additional program benefits and supplemental
 9 benefits under certain circumstances; providing for
 10 the program to offer health plans in specified benefit
 11 levels; requiring the Department of Management
 12 Services to develop a plan for implementation of the
 13 benefit levels; providing reporting requirements;
 14 providing for expiration of the implementation plan;
 15 creating s. 110.12303, F.S.; authorizing additional
 16 benefits to be included in the program; requiring the
 17 department to contract with at least one entity that
 18 provides comprehensive pricing and inclusive services
 19 for surgery and other medical procedures; providing
 20 contract and reporting requirements; requiring the
 21 department to contract with an entity to provide
 22 enrollees with online information on health care
 23 services and providers; providing contract and
 24 reporting requirements; creating s. 110.12304, F.S.;
 25 directing the department to contract with an

Page 1 of 24

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hb7007-00

HB 7007

2017

26 independent benefits consultant; providing
 27 qualifications and duties of the independent benefits
 28 consultant; providing reporting requirements;
 29 providing that the department shall determine and
 30 recommend premiums for enrollees for the 2018 plan
 31 year; providing requirements for the determination of
 32 premiums; requiring the department to submit premium
 33 rates to the Legislative Budget Commission by a
 34 specified date for review and approval; requiring
 35 premium rates to be consistent with the total budgeted
 36 amount for the program in the General Appropriations
 37 Act for the 2017-2018 fiscal year; providing an
 38 appropriation and authorizing positions; providing an
 39 effective date.
 40

41 Be It Enacted by the Legislature of the State of Florida:
 42

43 Section 1. Subsection (2) and paragraphs (b), (f), (h),
 44 and (j) of subsection (3) of section 110.123, Florida Statutes,
 45 are amended, and paragraph (k) is added to subsection (3) of
 46 that section, to read:

47 110.123 State group insurance program.—

48 (2) DEFINITIONS.—As used in ss. 110.123-110.1239 ~~this~~
 49 ~~section~~, the term:

50 (a) "Department" means the Department of Management

Page 2 of 24

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hb7007-00

HB 7007

2017

51 Services.

52 (b) "Enrollee" means all state officers and employees,
53 retired state officers and employees, surviving spouses of
54 deceased state officers and employees, and terminated employees
55 or individuals with continuation coverage who are enrolled in an
56 insurance plan offered by the state group insurance program.

57 "Enrollee" includes all state university officers and employees,
58 retired state university officers and employees, surviving
59 spouses of deceased state university officers and employees, and
60 terminated state university employees or individuals with
61 continuation coverage who are enrolled in an insurance plan
62 offered by the state group insurance program.

63 (c) "Full-time state employees" means employees of all
64 branches or agencies of state government holding salaried
65 positions who are paid by state warrant or from agency funds and
66 who work or are expected to work an average of at least 30 or
67 more hours per week; employees paid from regular salary
68 appropriations for 8 months' employment, including university
69 personnel on academic contracts; and employees paid from other-
70 personal-services (OPS) funds as described in subparagraphs 1.
71 and 2. The term includes all full-time employees of the state
72 universities. The term does not include seasonal workers who are
73 paid from OPS funds.

74 1. For persons hired before April 1, 2013, the term
75 includes any person paid from OPS funds who:

Page 3 of 24

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

hb7007-00

HB 7007

2017

76 a. Has worked an average of at least 30 hours or more per
77 week during the initial measurement period from April 1, 2013,
78 through September 30, 2013; or

79 b. Has worked an average of at least 30 hours or more per
80 week during a subsequent measurement period.

81 2. For persons hired after April 1, 2013, the term
82 includes any person paid from OPS funds who:

83 a. Is reasonably expected to work an average of at least
84 30 hours or more per week; or

85 b. Has worked an average of at least 30 hours or more per
86 week during the person's measurement period.

87 (d) "Health maintenance organization" or "HMO" means an
88 entity certified under part I of chapter 641.

89 (e) "Health plan member" means any person participating in
90 a state group health insurance plan, a TRICARE supplemental
91 insurance plan, or a health maintenance organization plan under
92 the state group insurance program, including enrollees and
93 covered dependents thereof.

94 (f) "Part-time state employee" means an employee of any
95 branch or agency of state government paid by state warrant from
96 salary appropriations or from agency funds, and who is employed
97 for less than an average of 30 hours per week or, if on academic
98 contract or seasonal or other type of employment which is less
99 than year-round, is employed for less than 8 months during any
100 12-month period, but does not include a person paid from other-

Page 4 of 24

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hb7007-00

HB 7007

2017

101 personal-services (OPS) funds. The term includes all part-time
102 employees of the state universities.

103 (g) "Plan year" means a calendar year.

104 (h)~~(g)~~ "Retired state officer or employee" or "retiree"
105 means any state or state university officer or employee who
106 retires under a state retirement system or a state optional
107 annuity or retirement program or is placed on disability
108 retirement, and who was insured under the state group insurance
109 program at the time of retirement, and who begins receiving
110 retirement benefits immediately after retirement from state or
111 state university office or employment. The term also includes
112 any state officer or state employee who retires under the
113 Florida Retirement System Investment Plan established under part
114 II of chapter 121 if he or she:

115 1. Meets the age and service requirements to qualify for
116 normal retirement as set forth in s. 121.021(29); or

117 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
118 the Internal Revenue Code and has 6 years of creditable service.

119 (i)~~(h)~~ "State agency" or "agency" means any branch,
120 department, or agency of state government. "State agency" or
121 "agency" includes any state university for purposes of this
122 section only.

123 (j)~~(i)~~ "Seasonal workers" has the same meaning as provided
124 under 29 C.F.R. s. 500.20(s)(1).

125 (k)~~(j)~~ "State group health insurance plan or plans" or

Page 5 of 24

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hb7007-00

HB 7007

2017

126 "state plan or plans" mean the state self-insured health
127 insurance plan or plans offered to state officers and employees,
128 retired state officers and employees, and surviving spouses of
129 deceased state officers and employees pursuant to this section.

130 (l)~~(k)~~ "State-contracted HMO" means any health maintenance
131 organization under contract with the department to participate
132 in the state group insurance program.

133 (m)~~(l)~~ "State group insurance program" or "programs" means
134 the package of insurance plans offered to state officers and
135 employees, retired state officers and employees, and surviving
136 spouses of deceased state officers and employees pursuant to
137 this section, including the state group health insurance plan or
138 plans, health maintenance organization plans, TRICARE
139 supplemental insurance plans, and other plans required or
140 authorized by law.

141 (n)~~(m)~~ "State officer" means any constitutional state
142 officer, any elected state officer paid by state warrant, or any
143 appointed state officer who is commissioned by the Governor and
144 who is paid by state warrant.

145 (o)~~(n)~~ "Surviving spouse" means the widow or widower of a
146 deceased state officer, full-time state employee, part-time
147 state employee, or retiree if such widow or widower was covered
148 as a dependent under the state group health insurance plan, ~~a~~
149 TRICARE supplemental insurance plan, or a health maintenance
150 organization plan established pursuant to this section at the

Page 6 of 24

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hb7007-00

HB 7007

2017

151 time of the death of the deceased officer, employee, or retiree.
 152 "Surviving spouse" also means any widow or widower who is
 153 receiving or eligible to receive a monthly state warrant from a
 154 state retirement system as the beneficiary of a state officer,
 155 full-time state employee, or retiree who died prior to July 1,
 156 1979. For the purposes of this section, any such widow or
 157 widower shall cease to be a surviving spouse upon his or her
 158 remarriage.

159 (p) (e) "TRICARE supplemental insurance plan" means the
 160 Department of Defense Health Insurance Program for eligible
 161 members of the uniformed services authorized by 10 U.S.C. s.
 162 1097.

163 (3) STATE GROUP INSURANCE PROGRAM.—

164 (b) It is the intent of the Legislature to offer a
 165 comprehensive package of health insurance and retirement
 166 benefits and a personnel system for state employees which are
 167 provided in a cost-efficient and prudent manner, and to allow
 168 state employees the option to choose benefit plans which best
 169 suit their individual needs. ~~Therefore,~~ The state group
 170 insurance program ~~is established which~~ may include the state
 171 group health insurance plan or plans, health maintenance
 172 organization plans, group life insurance plans, TRICARE
 173 supplemental insurance plans, group accidental death and
 174 dismemberment plans, ~~and~~ group disability insurance plans, ~~and~~
 175 ~~Furthermore, the department is additionally authorized to~~

Page 7 of 24

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hb7007-00

HB 7007

2017

176 ~~establish and provide as part of the state group insurance~~
 177 ~~program any other group insurance plans or coverage choices, and~~
 178 ~~other benefits authorized by law that are consistent with the~~
 179 ~~provisions of this section.~~

180 (f) Except as provided for in subparagraph (h)2., the
 181 state contribution toward the cost of any plan in the state
 182 group insurance program shall be uniform with respect to all
 183 state employees in a state collective bargaining unit
 184 participating in the same coverage tier in the same plan. This
 185 section does not prohibit the development of separate benefit
 186 plans for officers and employees exempt from the career service
 187 or the development of separate benefit plans for each collective
 188 bargaining unit. For the 2020 plan year and each plan year
 189 thereafter, if the state's contribution is more than the premium
 190 cost of the health plan selected by the employee, subject to
 191 federal limitation, the employee may elect to have the balance:

- 192 1. Credited to the employee's flexible spending account;
- 193 2. Credited to the employee's health savings account;
- 194 3. Used to purchase additional benefits offered through
 195 the state group insurance program; or
- 196 4. Used to increase the employee's salary.

197 (h)1. A person eligible to participate in the state group
 198 insurance program may be authorized by rules adopted by the
 199 department, in lieu of participating in the state group health
 200 insurance plan, to exercise an option to elect membership in a

Page 8 of 24

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hb7007-00

HB 7007

2017

201 health maintenance organization plan which is under contract
 202 with the state in accordance with criteria established by this
 203 section and by said rules. The offer of optional membership in a
 204 health maintenance organization plan permitted by this paragraph
 205 may be limited or conditioned by rule as may be necessary to
 206 meet the requirements of state and federal laws.

207 2. The department shall contract with health maintenance
 208 organizations seeking to participate in the state group
 209 insurance program through a request for proposal or other
 210 procurement process, as developed by the Department of
 211 Management Services and determined to be appropriate.

212 a. The department shall establish a schedule of minimum
 213 benefits for health maintenance organization coverage, and that
 214 schedule shall include: physician services; inpatient and
 215 outpatient hospital services; emergency medical services,
 216 including out-of-area emergency coverage; diagnostic laboratory
 217 and diagnostic and therapeutic radiologic services; mental
 218 health, alcohol, and chemical dependency treatment services
 219 meeting the minimum requirements of state and federal law;
 220 skilled nursing facilities and services; prescription drugs;
 221 age-based and gender-based wellness benefits; and other benefits
 222 as may be required by the department. Additional services may be
 223 provided subject to the contract between the department and the
 224 HMO. As used in this paragraph, the term "age-based and gender-
 225 based wellness benefits" includes aerobic exercise, education in

Page 9 of 24

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hb7007-00

HB 7007

2017

226 alcohol and substance abuse prevention, blood cholesterol
 227 screening, health risk appraisals, blood pressure screening and
 228 education, nutrition education, program planning, safety belt
 229 education, smoking cessation, stress management, weight
 230 management, and women's health education.

231 b. The department may establish uniform deductibles,
 232 copayments, coverage tiers, or coinsurance schedules for all
 233 participating HMO plans.

234 c. The department may require detailed information from
 235 each health maintenance organization participating in the
 236 procurement process, including information pertaining to
 237 organizational status, experience in providing prepaid health
 238 benefits, accessibility of services, financial stability of the
 239 plan, quality of management services, accreditation status,
 240 quality of medical services, network access and adequacy,
 241 performance measurement, ability to meet the department's
 242 reporting requirements, and the actuarial basis of the proposed
 243 rates and other data determined by the director to be necessary
 244 for the evaluation and selection of health maintenance
 245 organization plans and negotiation of appropriate rates for
 246 these plans. Upon receipt of proposals by health maintenance
 247 organization plans and the evaluation of those proposals, the
 248 department may enter into negotiations with all of the plans or
 249 a subset of the plans, as the department determines appropriate.
 250 Nothing shall preclude the department from negotiating regional

Page 10 of 24

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hb7007-00

HB 7007

2017

251 or statewide contracts with health maintenance organization
 252 plans when this is cost-effective and when the department
 253 determines that the plan offers high value to enrollees.

254 d. The department may limit the number of HMOs that it
 255 contracts with in each service area based on the nature of the
 256 bids the department receives, the number of state employees in
 257 the service area, or any unique geographical characteristics of
 258 the service area. The department shall establish by rule service
 259 areas throughout the state.

260 e. All persons participating in the state group insurance
 261 program may be required to contribute towards a total state
 262 group health premium that may vary depending upon the plan,
 263 coverage level, and coverage tier selected by the enrollee and
 264 the level of state contribution authorized by the Legislature.

265 3. The department is authorized to negotiate and to
 266 contract with specialty psychiatric hospitals for mental health
 267 benefits, on a regional basis, for alcohol, drug abuse, and
 268 mental and nervous disorders. The department may establish,
 269 subject to the approval of the Legislature pursuant to
 270 subsection (5), any such regional plan upon completion of an
 271 actuarial study to determine any impact on plan benefits and
 272 premiums.

273 4. In addition to contracting pursuant to subparagraph 2.,
 274 the department may enter into contract with any HMO to
 275 participate in the state group insurance program which:

Page 11 of 24

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hb7007-00

HB 7007

2017

276 a. Serves greater than 5,000 recipients on a prepaid basis
 277 under the Medicaid program;

278 b. Does not currently meet the 25-percent non-
 279 Medicare/non-Medicaid enrollment composition requirement
 280 established by the Department of Health excluding participants
 281 enrolled in the state group insurance program;

282 c. Meets the minimum benefit package and copayments and
 283 deductibles contained in sub-subparagraphs 2.a. and b.;

284 d. Is willing to participate in the state group insurance
 285 program at a cost of premiums that is not greater than 95
 286 percent of the cost of HMO premiums accepted by the department
 287 in each service area; and

288 e. Meets the minimum surplus requirements of s. 641.225.

289

290 The department is authorized to contract with HMOs that meet the
 291 requirements of sub-subparagraphs a.-d. prior to the open
 292 enrollment period for state employees. The department is not
 293 required to renew the contract with the HMOs as set forth in
 294 this paragraph more than twice. Thereafter, the HMOs shall be
 295 eligible to participate in the state group insurance program
 296 only through the request for proposal or invitation to negotiate
 297 process described in subparagraph 2.

298 5. All enrollees in a state group health insurance plan, a
 299 TRICARE supplemental insurance plan, or any health maintenance
 300 organization plan have the option of changing to any other

Page 12 of 24

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hb7007-00

HB 7007

2017

301 health plan that is offered by the state within any open
 302 enrollment period designated by the department. Open enrollment
 303 shall be held at least once each calendar year.

304 6. When a contract between a treating provider and the
 305 state-contracted health maintenance organization is terminated
 306 for any reason other than for cause, each party shall allow any
 307 enrollee for whom treatment was active to continue coverage and
 308 care when medically necessary, through completion of treatment
 309 of a condition for which the enrollee was receiving care at the
 310 time of the termination, until the enrollee selects another
 311 treating provider, or until the next open enrollment period
 312 offered, whichever is longer, but no longer than 6 months after
 313 termination of the contract. Each party to the terminated
 314 contract shall allow an enrollee who has initiated a course of
 315 prenatal care, regardless of the trimester in which care was
 316 initiated, to continue care and coverage until completion of
 317 postpartum care. This does not prevent a provider from refusing
 318 to continue to provide care to an enrollee who is abusive,
 319 noncompliant, or in arrears in payments for services provided.
 320 For care continued under this subparagraph, the program and the
 321 provider shall continue to be bound by the terms of the
 322 terminated contract. Changes made within 30 days before
 323 termination of a contract are effective only if agreed to by
 324 both parties.

325 7. Any HMO participating in the state group insurance

Page 13 of 24

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hb7007-00

HB 7007

2017

326 program shall submit health care utilization and cost data to
 327 the department, in such form and in such manner as the
 328 department shall require, as a condition of participating in the
 329 program. The department shall enter into negotiations with its
 330 contracting HMOs to determine the nature and scope of the data
 331 submission and the final requirements, format, penalties
 332 associated with noncompliance, and timetables for submission.
 333 These determinations shall be adopted by rule.

334 8. The department may establish and direct, with respect
 335 to collective bargaining issues, a comprehensive package of
 336 insurance benefits that may include supplemental health and life
 337 coverage, dental care, long-term care, vision care, and other
 338 benefits it determines necessary to enable state employees to
 339 select from among benefit options that best suit their
 340 individual and family needs. Beginning with the 2018 plan year,
 341 the package of benefits may also include products and services
 342 described in s. 110.12303.

343 a. Based upon a desired benefit package, the department
 344 shall issue a request for proposal or invitation to negotiate
 345 for ~~health insurance~~ providers interested in participating in
 346 the state group insurance program, and the department shall
 347 issue a request for proposal or invitation to negotiate for
 348 ~~insurance~~ providers interested in participating in the non-
 349 health-related components of the state group insurance program.
 350 Upon receipt of all proposals, the department may enter into

Page 14 of 24

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hb7007-00

HB 7007

2017

351 contract negotiations with ~~insurance~~ providers submitting bids
 352 or negotiate a specially designed benefit package. ~~Insurance~~
 353 Providers offering or providing supplemental coverage as of May
 354 30, 1991, which qualify for pretax benefit treatment pursuant to
 355 s. 125 of the Internal Revenue Code of 1986, with 5,500 or more
 356 state employees currently enrolled may be included by the
 357 department in the supplemental insurance benefit plan
 358 established by the department without participating in a request
 359 for proposal, submitting bids, negotiating contracts, or
 360 negotiating a specially designed benefit package. These
 361 contracts shall provide state employees with the most cost-
 362 effective and comprehensive coverage available; however, except
 363 as provided in subparagraph (f)3., no state or agency funds
 364 shall be contributed toward the cost of any part of the premium
 365 of such supplemental benefit plans. With respect to dental
 366 coverage, the division shall include in any solicitation or
 367 contract for any state group dental program made after July 1,
 368 2001, a comprehensive indemnity dental plan option which offers
 369 enrollees a completely unrestricted choice of dentists. If a
 370 dental plan is endorsed, or in some manner recognized as the
 371 preferred product, such plan shall include a comprehensive
 372 indemnity dental plan option which provides enrollees with a
 373 completely unrestricted choice of dentists.

374 b. Pursuant to the applicable provisions of s. 110.161,
 375 and s. 125 of the Internal Revenue Code of 1986, the department

Page 15 of 24

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hb7007-00

HB 7007

2017

376 shall enroll in the pretax benefit program those state employees
 377 who voluntarily elect coverage in any of the supplemental
 378 insurance benefit plans as provided by sub-subparagraph a.

379 c. Nothing herein contained shall be construed to prohibit
 380 insurance providers from continuing to provide or offer
 381 supplemental benefit coverage to state employees as provided
 382 under existing agency plans.

383 (j) For the 2020 plan year and each plan year thereafter,
 384 health plans shall be offered in the following benefit levels:

385 1. Platinum level, which shall have an actuarial value of
 386 at least 90 percent.

387 2. Gold level, which shall have an actuarial value of at
 388 least 80 percent.

389 3. Silver level, which shall have an actuarial value of at
 390 least 70 percent.

391 4. Bronze level, which shall have an actuarial value of at
 392 least 60 percent ~~Notwithstanding paragraph (f) requiring uniform~~
 393 ~~contributions, and for the 2011-2012 fiscal year only, the state~~
 394 ~~contribution toward the cost of any plan in the state group~~
 395 ~~insurance plan is the difference between the overall premium and~~
 396 ~~the employee contribution. This subsection expires June 30,~~
 397 ~~2012.~~

398 (k) In consultation with the independent benefits
 399 consultant described in s. 110.12304, the department shall
 400 develop a plan for implementation of the benefit levels

Page 16 of 24

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hb7007-00

HB 7007

2017

401 described in paragraph (j). The plan shall be submitted to the
 402 Governor, the President of the Senate, and the Speaker of the
 403 House of Representatives by January 1, 2019, and include
 404 recommendations for:

- 405 1. Employer and employee contribution policies.
- 406 2. Steps necessary for maintaining or improving total
 407 employee compensation levels when the transition is initiated.
- 408 3. An education strategy to inform employees of the
 409 additional choices available in the state group insurance
 410 program.

411 This paragraph expires July 1, 2019.

412 Section 2. Section 110.12303, Florida Statutes, is created
 413 to read:

414 110.12303 State group insurance program; additional
 415 benefits; price transparency program; reporting.—Beginning with
 416 the 2018 plan year:

417 (1) In addition to the comprehensive package of health
 418 insurance and other benefits required or authorized to be
 419 included in the state group insurance program, the package of
 420 benefits may also include products and services offered by:

421 (a) Prepaid limited health service organizations
 422 authorized pursuant to part I of chapter 636.

423 (b) Discount medical plan organizations authorized
 424 pursuant to part II of chapter 636.

Page 17 of 24

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hb7007-00

HB 7007

2017

426 (c) Prepaid health clinics licensed under part II of
 427 chapter 641.

428 (d) Licensed health care providers, including hospitals
 429 and other health care facilities, health care clinics, and
 430 health professionals, who sell service contracts and
 431 arrangements for a specified amount and type of health services.

432 (e) Provider organizations, including service networks,
 433 group practices, professional associations, and other
 434 incorporated organizations of providers, who sell service
 435 contracts and arrangements for a specified amount and type of
 436 health services.

437 (f) Entities that provide specific health services in
 438 accordance with applicable state law and sell service contracts
 439 and arrangements for a specified amount and type of health
 440 services.

441 (g) Entities that provide health services or treatments
 442 through a bidding process.

443 (h) Entities that provide health services or treatments
 444 through the bundling or aggregating of health services or
 445 treatments.

446 (i) Entities that provide other innovative and cost-
 447 effective health service delivery methods.

448 (2) (a) The department shall contract with at least one
 449 entity that provides comprehensive pricing and inclusive
 450 services for surgery and other medical procedures which may be

Page 18 of 24

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hb7007-00

HB 7007

2017

451 accessed at the option of the enrollee. The contract shall
 452 require the entity to:
 453 1. Have procedures and evidence-based standards to ensure
 454 the inclusion of only high-quality health care providers.
 455 2. Provide assistance to the enrollee in accessing and
 456 coordinating care.
 457 3. Provide cost savings to the state group insurance
 458 program to be shared with both the state and the enrollee. Cost
 459 savings payable to an enrollee may be:
 460 a. Credited to the enrollee's flexible spending account;
 461 b. Credited to the enrollee's health savings account;
 462 c. Credited to the enrollee's health reimbursement
 463 account; or
 464 d. Paid as additional health plan reimbursements not
 465 exceeding the amount of the enrollee's out-of-pocket medical
 466 expenses.
 467 4. Provide an educational campaign for enrollees to learn
 468 about the services offered by the entity.
 469 (b) On or before January 15 of each year, the department
 470 shall report to the Governor, the President of the Senate, and
 471 the Speaker of the House of Representatives on the participation
 472 level and cost-savings to both the enrollee and the state
 473 resulting from the contract or contracts described in this
 474 subsection.
 475 (3) The department shall contract with an entity that

Page 19 of 24

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hb7007-00

HB 7007

2017

476 provides enrollees with online information on the cost and
 477 quality of health care services and providers, allows an
 478 enrollee to shop for health care services and providers, and
 479 rewards the enrollee by sharing savings generated by the
 480 enrollee's choice of services or providers. The contract shall
 481 require the entity to:
 482 (a) Establish an Internet-based, consumer-friendly
 483 platform that educates and informs enrollees about the price and
 484 quality of health care services and providers, including the
 485 average amount paid in each county for health care services and
 486 providers. The average amounts paid for such services and
 487 providers may be expressed for service bundles, which include
 488 all products and services associated with a particular treatment
 489 or episode of care, or for separate and distinct products and
 490 services.
 491 (b) Allow enrollees to shop for health care services and
 492 providers using the price and quality information provided on
 493 the Internet-based platform.
 494 (c) Permit a certified bargaining agent of state employees
 495 to provide educational materials and counseling to enrollees
 496 regarding the Internet-based platform.
 497 (d) Identify the savings realized to the enrollee and
 498 state if the enrollee chooses high-quality, lower-cost health
 499 care services or providers, and facilitate a shared savings
 500 payment to the enrollee. The amount of shared savings shall be

Page 20 of 24

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hb7007-00

HB 7007

2017

501 determined by a methodology approved by the department and shall
 502 maximize value-based purchasing by enrollees. The amount payable
 503 to the enrollee may be:

504 1. Credited to the enrollee's flexible spending account;
 505 2. Credited to the enrollee's health savings account;
 506 3. Credited to the enrollee's health reimbursement
 507 account; or

508 4. Paid as additional health plan reimbursements not
 509 exceeding the amount of the enrollee's out-of-pocket medical
 510 expenses.

511 (e) On or before January 1 of 2019, 2020, and 2021, the
 512 department shall report to the Governor, the President of the
 513 Senate, and the Speaker of the House of Representatives on the
 514 participation level, amount paid to enrollees, and cost-savings
 515 to both the enrollees and the state resulting from the
 516 implementation of this subsection.

517 Section 3. Section 110.12304, Florida Statutes, is created
 518 to read:

519 110.12304 Independent benefits consultant.-

520 (1) The department shall competitively procure an
 521 independent benefits consultant.

522 (2) The independent benefits consultant may not:

523 (a) Be owned or controlled by a health maintenance
 524 organization or insurer.

525 (b) Have an ownership interest in a health maintenance

Page 21 of 24

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hb7007-00

HB 7007

2017

526 organization or insurer.

527 (c) Have a direct or indirect financial interest in a
 528 health maintenance organization or insurer.

529 (3) The independent benefits consultant must have
 530 substantial experience in consultation and design of employee
 531 benefit programs for large employers and public employers,
 532 including experience with plans that qualify as cafeteria plans
 533 under s. 125 of the Internal Revenue Code of 1986.

534 (4) The independent benefits consultant shall:

535 (a) Provide an ongoing assessment of trends in benefits
 536 and employer-sponsored insurance that affect the state group
 537 insurance program.

538 (b) Conduct a comprehensive analysis of the state group
 539 insurance program, including available benefits, coverage
 540 options, and claims experience.

541 (c) Identify and establish appropriate adjustment
 542 procedures necessary to respond to any risk segmentation that
 543 may occur when increased choices are offered to employees.

544 (d) Assist the department with the submission of any
 545 necessary plan revisions for federal review.

546 (e) Assist the department in ensuring compliance with
 547 applicable federal and state regulations.

548 (f) Assist the department in monitoring the adequacy of
 549 funding and reserves for the state self-insured plan.

550 (g) Assist the department in preparing recommendations for

Page 22 of 24

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hb7007-00

HB 7007

2017

551 any modifications to the state group insurance program which
 552 shall be submitted to the Governor, the President of the Senate,
 553 and the Speaker of the House of Representatives by January 1 of
 554 each year.

555 Section 4. For the 2018 plan year, the Department of
 556 Management Services shall determine and recommend premiums for
 557 enrollees that reflect the actual differences in costs to the
 558 program for each of the health maintenance organization and the
 559 preferred provider organization plan options offered in the
 560 state group insurance program for both self-insured and fully
 561 insured plans. The premium alternatives for the plan options
 562 shall reflect the costs to the program for both medical and
 563 prescription drug benefits. By July 1, 2017, the department
 564 shall submit the proposed enrollee premium rates for the 2018
 565 plan year to the Legislative Budget Commission for review and
 566 approval. If the Legislative Budget Commission does not approve
 567 the proposed rates, the rates provided in the 2017-2018 General
 568 Appropriations Act shall apply. The premium rates for employers
 569 shall be the same as those established for the state group
 570 insurance program in the General Appropriations Act for the
 571 2017-2018 fiscal year.

572 Section 5. (1) For the 2017-2018 fiscal year, the sums of
 573 \$151,216 in recurring funds and \$507,546 in nonrecurring funds
 574 are appropriated from the State Employees Health Insurance Trust
 575 Fund to the Department of Management Services, and two full-time

Page 23 of 24

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hb7007-00

HB 7007

2017

576 equivalent positions and associated salary rate of 120,000 are
 577 authorized, for the purpose of implementing this act.

578 (2) (a) The recurring funds appropriated in this section
 579 shall be allocated to the following specific appropriation
 580 categories within the Insurance Benefits Administration Program:
 581 \$150,528 in Salaries and Benefits and \$688 in Special Categories
 582 Transfer to Department of Management Services-Human Resources
 583 Purchased per Statewide Contract.

584 (b) The nonrecurring funds appropriated in this section
 585 shall be allocated to the following specific appropriation
 586 categories: \$500,000 in Special Categories Contracted Services
 587 and \$7,546 in Expenses.

588 Section 6. This act shall take effect July 1, 2017.

Page 24 of 24

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hb7007-00



691160

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment (with title amendment)

Between lines 162 and 163
insert:

(q) "Actuarial value" means the percentage paid by a health
plan of the percentage of the total allowed costs of benefits
which is calculated in accordance with 45 C.F.R. s. 156.135.

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

And the title is amended as follows:



691160

11 Delete line 4
12 and insert:
13 certain definitions; defining the terms "plan year"
14 and "actuarial value";



612856

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
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	.	

The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment

Delete line 263
and insert:
benefit level, and coverage tier selected by the enrollee and



964332

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment

Delete line 458
and insert:
program to be shared equally with both the state and the
enrollee. Cost



538286

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment

Delete lines 469 - 511
and insert:

(b) On or before April 1 of each year, the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the participation level and cost-savings to both the enrollee and the state resulting from the contract or contracts described in this subsection.



538286

(3) The department shall contract with an entity that provides enrollees with online information on the cost and quality of health care services and providers, allows an enrollee to shop for health care services and providers, and rewards the enrollee by sharing savings generated by the enrollee's choice of services or providers. The contract shall require the entity to:

(a) Establish an Internet-based, consumer-friendly platform that educates and informs enrollees about the price and quality of health care services and providers, including the average amount paid in each county for health care services and providers. The average amounts paid for such services and providers may be expressed for service bundles, which include all products and services associated with a particular treatment or episode of care, or for separate and distinct products and services.

(b) Allow enrollees to shop for health care services and providers using the price and quality information provided on the Internet-based platform.

(c) Permit a certified bargaining agent of state employees to provide educational materials and counseling to enrollees regarding the Internet-based platform.

(d) Identify the savings realized to the enrollee and state if the enrollee chooses high-quality, lower-cost health care services or providers, and facilitate a shared savings payment to the enrollee. The amount of shared savings shall be determined by a methodology approved by the department and shall maximize value-based purchasing by enrollees. The amount payable to the enrollee may be:



538286

- 40 1. Credited to the enrollee's flexible spending account;
41 2. Credited to the enrollee's health savings account;
42 3. Credited to the enrollee's health reimbursement account;
43 or
44 4. Paid as additional health plan reimbursements not
45 exceeding the amount of the enrollee's out-of-pocket medical
46 expenses.
47 (e) On or before April 1 of each year, the



203288

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment

Delete line 566
and insert:
approval. The Legislative Budget Commission shall consider the
proposed rates for review and approval by no later than August
1, 2017. If the Legislative Budget Commission does not approve



611870

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment

Delete lines 178 - 179
and insert:
other benefits authorized by law that are consistent with the
provisions of s. 125 of the Internal Revenue Code ~~this section.~~



969732

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
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	.	
	.	

The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment

Delete lines 403 - 407
and insert:
House of Representatives by January 1, 2019, and must include an
actuarial study of the trends, costs, and savings over the next
15 years which are associated with the implementation of the
benefit levels for employers and enrollees. The plan must also
include recommendations for:
1. Employer and enrollee contribution policies.



969732

11 2. Steps necessary for maintaining or improving total
12 employee compensation levels.



919800

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/24/2017	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Baxley) recommended the following:

Senate Amendment

Delete line 421
and insert:
benefits may also include products and services consistent with
the provisions of s. 125 of the Internal Revenue Code which are
offered by:

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: HB 7109, 1st Eng.

INTRODUCER: Ways and Means Committee and Representative Boyd

SUBJECT: Taxation

DATE: April 30, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Diez-Arguelles</u>	<u>Hansen</u>	<u>AP</u>	<u>Pre-meeting</u>

I. Summary:

HB 7109 provides for a wide range of tax reductions and modifications that affect households and businesses and improve tax administration. The bill:

- Allows low-income residents of homes for the aged to prove their income by providing an affidavit to the property appraiser;
- Provides a 50 percent discount in property taxes to certain multifamily, low-income housing projects;
- Deletes a requirement that circuit courts provide estate administration information to the Department of Revenue;
- Provides guidance for the determination of whether certain heavy construction and agricultural equipment returned under a rent-to-purchase option is inventory and exempt from property tax;
- Repeals several annual license taxes and registration fees;
- Repeals a cigarette tax distribution to the Sanford-Burnham Medical Research Institute;
- Reduces the state sales tax rate on the rental of commercial real estate from 6.0 percent to 4.5 percent for two years, beginning January 1, 2018, then maintains a permanent tax rate reduction from 6.0 percent to 5.5 percent, beginning January 1, 2020;
- Sets forth procedures for certain resellers of admissions to receive a refund of taxes paid when they make a sale to a tax-exempt person;
- Repeals a requirement that a tax notice be placed on vending machines, and the related penalty;
- Increases the exempt sales price for farm trailers from \$20,000 to \$25,000;
- Exempts from sales tax certain animal health products and other agricultural items;
- Extends the Community Contribution Tax Credit against sales tax, corporate income tax, and insurance premium tax from June 30, 2018, to June 30, 2019, and provides \$21.4 million of credits for donations related to housing for special needs persons and low-income households;
- Exempts from sales tax certain purchases made by municipally-owned golf course operators;
- Exempts from sales tax products used to control menstrual flow;

- Exempts from sales tax diapers and incontinence products;
- Provides an annual sales tax holiday for veterans;
- Exempts from sales tax certain purchases of tangible personal property by related companies covered by the federal Dodd-Frank Act;
- Provides \$20 million of Contaminated Site Rehabilitation Tax Credits for Fiscal Year 2017-2018 and increases the current \$5 million annual credit limit to \$10 million, thereafter;
- Increases the amount of Research and Development Tax Credits that may be taken against the Corporate Income Tax from \$9 million to \$20 million for calendar year 2018;
- Extends the Corporate Income Tax filing extension period from 5 months to 6 months for certain corporate taxpayers to conform with federal changes;
- Requires estimated of payments of Corporate income tax that are due on the last Saturday or Sunday in June to be paid on or before the last Friday in June;
- Provides that tax collectors and certain county commissions have the sole authority to contract with private license tag agents for the operation of a branch office to issue and renew license tag registrations and motor vehicle titles;
- Exempts from license fees the registration of certain marine boat trailers;
- Requires local motor fuel taxes to be renewed before July 1 to be effective on September 1 of the year they expire;
- Changes the filing due date for Reemployment Assistance Tax returns and allows the Department of Revenue to waive penalties for late filing in certain circumstances;
- Redefines “beer” for purposes of the beverage law;
- Exempts from sales tax the sale of college textbooks and instructional materials for one year;
- Provides a ten-day “back-to-school” holiday for clothing, footwear, school supplies, and computers; and
- Provides a nine-day “disaster preparedness” holiday for certain items related to disaster preparedness.

Except as otherwise provided, the bill takes effect on July 1, 2017.

The total fiscal impact of the bill in Fiscal Year 2017-2018 is a reduction of \$296.7 million. This includes reductions of \$238.5 million to the General Revenue Fund, \$2.6 million to state trust funds, and \$55 million to local governments. **See Section V., Fiscal Impact Statement for details.**

This bill may be a mandate requiring a two-thirds vote of the membership of each House of the Legislature. See Section IV. A., Constitutional Issues for details.

II. Present Situation:

The present situation for each issue is described in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Section 1 – Ad Valorem Tax: Nonprofit Homes for the Aged, Income Affidavits

Present situation: Certain portions of homes for the aged may be exempt from property tax if the owner meets certain statutory requirements.¹ Relevant to the bill, units or apartments of a qualifying home for the aged are exempt from tax if they are restricted for use as a permanent residence by the following low-income persons:

- Persons who have gross incomes² of not more than \$7,200³ per year and who are 62 years of age or older.
- Couples, one of whom must be 62 years of age or older, having a combined gross income of not more than \$8,000⁴ per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.
- Persons who are totally and permanently disabled and who have gross incomes of not more than \$7,200 per year.⁵
- Couples, one or both of whom are totally and permanently disabled, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.

Homes for the aged must annually apply for exemption.⁶ A home for the aged must include with the application an affidavit from each person residing in a unit or apartment attesting that he or she resides in the unit or apartment and, in good faith, makes that unit or apartment his or her permanent residence.⁷ The application notifies the facility that it may be required to provide supplemental information upon a reasonable request by the property appraiser.⁸

Proposed change: The bill provides that each facility must file with the annual application for exemption an affidavit approved by the Department of Revenue from each person who occupies a unit or apartment stating the person's income. The affidavit is prima facie evidence of the person's income. If the property appraiser determines, at a later time, that additional documentation proving an affiant's income is necessary, the property appraiser may request such documentation. The facility is not required to provide an income affidavit from a resident who is a totally and permanently disabled veteran who meets the requirements of s. 196.081, F.S.

¹ See s. 196.1975, F.S.

² Includes social security benefits for purposes of this exemption. Section 196.1975(6), F.S.

³ The income limitation is adjusted annually. See s. 196.1975(4)(b), F.S. For 2017, the annual limit is \$31,877. See Florida Property Tax Valuation and Income Limitation Rates, Florida Department of Revenue, available at <http://floridarevenue.com/dor/property/resources/limitations.html>.

⁴ See *id.* For 2017, the annual limit for couples is \$35,787.

⁵ The income limitations do not apply to totally and permanently disabled veterans that meet the requirements of s. 196.081, F.S. Section 196.1975(4)(a), F.S.

⁶ Section 196.1975(9)(b), F.S.

⁷ *Id.*

⁸ Florida Department of Revenue Form DR-504HA, Ad Valorem Tax Exemption Application and Return, Homes for the Aged, available at http://floridarevenue.com/Pages/forms_index.aspx (last visited April 27, 2017).

Section 2 – Ad Valorem Tax: Affordable Housing

Present situation: All property must be assessed at just value for ad valorem tax (property tax) purposes.⁹ The Legislature is authorized to exempt from property tax property used predominately for educational, literary, scientific, religious or charitable purposes.¹⁰

Florida exempts certain property used to provide affordable housing to persons with income classified as extremely low, very low, low, or moderate.¹¹ The property must be owned entirely by a not for profit corporation that qualifies as charitable under s. 501(c)(3) of the Internal Revenue Code.¹² The property appraiser must also ensure that the property complies with the requirements of s. 196.195, F.S., which provides criteria for determining that a property owner is nonprofit, and s. 196.196, F.S., which provides the extent to which property may be treated as exempt due to charitable, religious, scientific or literary use.

In determining whether an applicant is a nonprofit or profit-making venture, s. 196.195, F.S., outlines the statutory criteria that a property appraiser must consider.¹³ The applicant must show that “no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.”¹⁴

In determining whether the use of a property qualifies as charitable, s. 196.196, F.S., requires the property appraiser to consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.¹⁵

The Florida Housing Finance Corporation (FHFC) was created by the Legislature to administer the governmental function of financing or refinancing housing and related facilities, and is described as an “entrepreneurial public corporation” that is housed in, but not controlled by, the Department of Economic Opportunity.¹⁶ The FHFC provides numerous financing resources, such as loans and tax credits, to real estate developers who build certain low-income housing projects. Rental property developers who receive financing from the FHFC must agree to enter a Land Use Restrictive Agreement (LURA), which subjects the rental property to certain limitations in exchange for preferable financing, in the way of low-interest loans or tax credits.¹⁷ The purpose of a LURA is to ensure FHFC-financed housing remains affordable by limiting the maximum rent that can be charged for a unit and by requiring that some or all of the units be made available only to households with specified lower incomes.¹⁸ The land use restrictions are documented in

⁹ FLA CONST., art. VII, s. 4.

¹⁰ FLA CONST., art. VII, s. 3.

¹¹ Section 196.1978, F.S.

¹² *Id.*

¹³ Section 196.195, F.S.

¹⁴ Section 196.195(3), F.S.

¹⁵ Section 196.196(1)(a)-(b), F.S.

¹⁶ Section 420.504(1), F.S.

¹⁷ Correspondence between Florida Housing Finance Corporation staff and House Ways and Means Committee staff (on file with the Senate Appropriations Subcommittee on Finance and Tax).

¹⁸ Correspondence between Florida Housing Finance Corporation staff and House Ways and Means Committee staff (on file with the Senate Appropriations Subcommittee on Finance and Tax).

the LURA, and recorded in the public record.¹⁹ Recording the LURA means its restrictions run with the land, so that if the property is sold during the term of the agreement, the buyer must also abide by the terms of the LURA. Depending on applicable federal and state program requirements, the restriction period for the property may be as short as 10 years or as long as 50 years.

Proposed change: The bill provides a 50 percent discount on the amount of property tax otherwise due for property used to provide affordable housing. The property will be considered to be used for a charitable purpose, notwithstanding the requirements of ss. 196.195 and 196.196, F.S. In order to qualify for the discount, the property must:

- Provide affordable housing to natural persons or families meeting the extremely low, very low, or low-income limits specified in s. 420.0004, F.S.;
- Contain more than 70 units that provide affordable housing to the above group; and
- Be subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The discount will begin in the 16th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount will terminate when the property is no longer serving extremely low, very low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

Sections 3 and 42 – Department of Revenue Administration: Estate Administration Reporting and Notice to Creditors

Present situation: Each circuit judge of this state must notify the DOR and the Agency for Healthcare Administration on a monthly basis of names and certain other information related to all estates of decedents that commenced estate administration during the preceding month.²⁰ Due to changes in estate and intangible tax law, the DOR no longer uses or needs this information.

Proposed change: The bill removes the DOR from the monthly reporting requirement for circuit court judges. However, the personal representative must provide to the DOR a copy of the notice of creditors when the DOR is a creditor.

Section 4 – Ad Valorem Tax: Inventory

Present situation: Florida exempts from property tax all items of inventory.²¹ Inventory includes goods, wares, and merchandise that are held for sale or lease to customers in the ordinary course of business.²²

¹⁹ See. s. 420.504(46), F.S.

²⁰ Section 198.30, F.S.

²¹ Section 196.185, F.S.

²² Section 192.001(11)(c), F.S.

Items of inventory become taxable after they are sold or leased. If an item of inventory is sold, the item will become taxable to the buyer after the sale; if an item of inventory is leased or rented, the item will become taxable to the owner after it is leased the first time.²³

If an item of inventory is sold, but is returned to the seller because the sale falls through, the property may reacquire its status as inventory. If the item was sold under a “rent to purchase” arrangement, a property appraiser may review the provisions in the contract to determine whether a lease or sale has occurred. If it was a sale, the property may reacquire its status as inventory; if it was a lease, the property remains taxable.

Proposed change: The bill classifies as inventory construction and agricultural equipment weighing 1,000 pounds or more that is returned to a dealership under a rent to purchase option and held for sale to customers in the ordinary course of business.

Sections 5-14, 19, 21, 35-36, and 47 – Sales and Use Tax: Registration Fees

Present situation: The following registration and licensing fees must be paid to the DOR:

- Terminal supplier, importer, exporter, blender, biodiesel manufacturer, or wholesaler of motor fuel license tax (\$30 annually);²⁴
- Private or common carrier of motor fuel license tax (\$30 annually);²⁵
- Terminal operator license tax (\$30 annually);²⁶
- Any person who is not otherwise licensed pursuant to ch. 206 (fuel taxes) and who produces, imports, or causes to be imported pollutants, a temporary license fee (\$30 annually);²⁷
- Commercial air carrier license application fee (\$30 annually);²⁸
- Natural gas fuel retailer license fee (\$5 annually);²⁹
- Unregistered persons who but for their mail order purchases would not be required to remit sales or use tax directly to the DOR (unspecified amount);³⁰
- Most sales tax dealers (one time \$5 registration fee for paper return filers);³¹
- Drycleaning facility or drycleaning drop-off facility registration fee (\$30 annually);³² and
- Any person producing in, importing into, or causing to be imported into, or selling in, this state perchloroethylene registration fee (e.g., chemical sold to drycleaning facilities).³³

In addition, when motor fuel or diesel fuel is sold by a retail dealer to a person entitled to a refund, such person may file a refund claim pursuant to s. 206.41, F.S. The DOR is authorized to deduct \$2 from each refund claim.

²³ See *id.*

²⁴ Section 206.02, F.S.

²⁵ Section 206.021, F.S.

²⁶ Section 206.022, F.S.

²⁷ Section 206.9943, F.S.

²⁸ Section 206.9865, F.S.

²⁹ Section 206.9952, F.S.

³⁰ Section 212.0596, F.S.

³¹ Section 212.18, F.S.

³² Section 376.70, F.S.

³³ Section 376.75(2), F.S.

Proposed change: The bill eliminates the license registration fees and the \$2 deduction described above.

Section 15 -- Cigarette Tax: Biomedical Research

Present situation: Chapter 210, F.S., governs taxes on tobacco products. Cigarette tax collections received by the Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation are deposited into the Cigarette Tax Collection Trust Fund. Section 210.20, F.S., provides for the payment of monthly distributions as follows:

From the total amount of cigarette tax collections:³⁴

- 8.0 percent service charge to the General Revenue Fund;³⁵ and
- 0.9 percent to the Alcoholic Beverage and Tobacco Trust Fund.

From the remaining net collections:³⁶

- 2.9 percent to the Revenue Sharing Trust Fund for Counties;
- 29.3 percent to the Public Medical Assistance Trust Fund;
- 4.04 percent to the Moffitt Center;³⁷ and
- 1.0 percent to the Biomedical Research Trust Fund in the Department of Health (DOH).³⁸

After the above distributions are made, the remaining balance of net cigarette tax collections is deposited in the General Revenue Fund.³⁹

The funds deposited into the Biomedical Research Trust Fund are appropriated annually in an amount not to exceed \$3 million for the purpose of establishing activities and grant opportunities in relation to biomedical research.⁴⁰ The Department of Health and the Sanford-Burnham Medical Research Institute are required to use the funding to work in conjunction for these purposes.

Proposed change: The bill repeals the 1.0 percent distribution to the Biomedical Research Trust Fund. Upon this bill becoming a law, those funds will instead go to the General Revenue Fund.

³⁴ See s. 210.20(2)(a), F.S.

³⁵ See s. 215.20(1), F.S. concerning the appropriation of the eight percent service charge to the General Revenue Fund.

³⁶ See s. 210.20(2)(a), F.S.

³⁷ See s. 210.20(2)(b), F.S. The distribution of cigarette tax funds to the H. Lee Moffitt Cancer Center and Research Institute was initiated in 1998, using 2.59 percent for the calculation on net cigarette tax collections. See ch. 98-286, Laws of Fla. The last adjustment to the percentage for the calculation occurred in 2014, when the percentage was set at the current 4.04 percent from July 1, 2014 through June 30, 2033. The statute provides that the “appropriation ...shall not be less than the amount that would have been paid to the H. Lee Moffitt Cancer Center and Research Institute in fiscal year 2001-2002, had this subparagraph been in effect,” resulting in the distribution being more than 4.04 percent of net collections. See s. 8 of Chapter 2014-38., Laws of Fla.

³⁸ Pursuant to s. 210.20(2)(c), F.S., these funds (constituting 1.0 percent of net collections) are appropriated in an amount up to \$3 million annually during the period of July 1, 2013 to June 30, 2033, to the DOH and the Sanford-Burnham Medical Research Institute for the purpose of those entities working to establish activities and grant opportunities relating to biomedical research.

³⁹ See s. 210.20(3), F.S.

⁴⁰ Section 210.20(2)(c), F.S.

Section 16 – Sales and Use Tax: Commercial Real Estate Rentals (Business Rent Tax)

Present situation: Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.⁴¹ State sales tax is due at the rate of six percent on the total rent paid for the right to use or occupy commercial real property and county local option sales surtax may also be levied on total rent.⁴² If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines.

However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property statewide; however, similar taxes are imposed by some cities.⁴³

The Legislature's Office of Economic and Demographic Research issued a report on the business rent tax in 2014.⁴⁴

Proposed change: The bill reduces the state sales tax rate on rental of commercial real estate (business rent tax) from six percent to 4.5 percent for two years, beginning January 1, 2018, then maintains a permanent tax rate reduction from six percent to 5.5 percent beginning January 1, 2020.

Section 17 – Sales and Use Tax: Resales of Admissions

Present situation: Section 212.04, F.S., governs the state sales tax on admissions. Sales tax is levied at the rate of six percent of the sales price or the actual value received from admissions. Admissions are defined as the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any:

- Place of amusement, sport, or recreation including, but not limited to, theaters, shows, exhibitions, games, races;

⁴¹ Chapter 1969-222, Laws of Fla.

⁴² Section 212.031, F.S., and Rule 12A-1.070, F.A.C.

⁴³ See e.g. New York City's Commercial Rent Tax. See New York City Department of Finance website, available at <http://www1.nyc.gov/site/finance/taxes/business-commercial-rent-tax-crt.page> (last visited April 27, 2017).

⁴⁴ Office of Economic and Demographic Research, Economic Impact: Sales Tax on the Rental of Real Property (Nov. 15, 2014), available at <http://edr.state.fl.us/Content/returnoninvestment/SalesTaxontheRentalofRealProperty.pdf> (last visited April 27, 2017).

- Place where a charge is made by way of ticket sales, gate charges, and similar fees or charges;
- Receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation; and
- All dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities.⁴⁵

Several exceptions and exemptions exist, such as:

- Memberships for physical fitness facilities owned or operated by any hospital;
- Admissions to athletic or other events sponsored by a school;
- Fees or charges imposed by certain not-for-profit organizations;
- Events sponsored by a governmental entity, nonprofit sports authority, or nonprofit sports commission under certain circumstances;
- Admissions to certain professional and collegiate sports all-star and championship games;
- Entry fees for freshwater fishing tournaments;
- Participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event;
- Admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.⁴⁶

Generally, sales of tangible personal property made for resale are exempt from sales tax.⁴⁷ This treatment does not apply to sales of taxable admissions.⁴⁸

Proposed change: The bill provides an exemption for certain resales of admissions to a purchaser that is eligible for an exemption from sales tax. The bill allows a person who has purchased a taxable admission and resells that admission to an entity with a valid exemption certificate from the DOR to seek a refund or credit of the tax paid on its initial purchase of the admission from the vendor of the initial sale. The vendor may then seek a refund or credit of the tax from the DOR.

Section 18 – Sales and Use Tax: Vending Machine Sales

Present situation: An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the DOR, has obtained a separate registration certificate for each county in which such machines are located, and has affixed a notice to each vending machine selling food or beverages.⁴⁹ The penalty for noncompliance with the notice requirement is \$250 per machine.⁵⁰ The notice is intended to notify customers that each vending machine must contain the required notice, and if a machine

⁴⁵ Section 212.02(1), F.S.

⁴⁶ See s. 212.04(2)(a), F.S.

⁴⁷ See the definition of “retail sale” in s. 212.02(14), F.S. Also see s. 212.07, F.S.

⁴⁸ Section 212.04(1)(c), F.S.

⁴⁹ Section 212.0515(3)(a), F.S.

⁵⁰ Section 212.0515(4), F.S.

does not have such notice the customer may report the noncompliance to the DOR and potentially receive a cash reward.⁵¹

The DOR estimates that it receives approximately 100-150 calls per year on the toll free number provided on the notice related to vending machines, but almost all of those calls are individuals complaining that the machine does not work. The DOR has never issued the \$250 penalty, nor the reward for reporting noncompliance.

Proposed change: The bill removes the notice requirement, the associated penalty, and the customer reward for reporting noncompliance.

Section 20 – Sales and Use Tax: Various Exemptions

Agriculture-Related Exemptions

Present situation: Specific items for agricultural use are exempt from the sales and use tax.⁵² For example, disinfectants, fertilizers, insecticides, pesticides, herbicides, fungicides, and weed killers used for application on crops or groves, including commercial nurseries and home vegetable gardens, used in dairy barns or on poultry farms for the purpose of protecting poultry or livestock, or used directly on poultry or livestock. To obtain the exemption, the purchaser must sign a certificate stating that the item to be exempted is for the exclusive use designated in statute.⁵³

Also exempt from the sales and use tax are sales of drugs to or by a veterinarian in connection with medical treatment⁵⁴ and purchases by a veterinarian of commonly recognized substances possessing curative or remedial properties which are ordered and dispensed as treatment for a diagnosed health disorder by or on the prescription of a duly licensed veterinarian, and which are applied to or consumed by animals for alleviation of pain or the cure or prevention of sickness, disease, or suffering.⁵⁵

Additionally, the portion of the sales price below \$20,000 for a trailer that weighs 12,000 pounds or less that is purchased by a farmer is exempt from the sales and use tax. The trailer must be used exclusively in agricultural production or to transport farm products from the farm to the place where the farmer transfers ownership of the product or products.⁵⁶

Proposed change: Effective July 1, 2017, the bill adds the following to the list of items in agricultural use that are exempt from the sales and use tax:

- Hog wire and nylon mesh netting used on a farm for protection from predatory or destructive animals;
- Barbed wire fencing, including gates and materials used to construct or repair such fencing, used on a beef or dairy cattle farm;

⁵¹ Section 212.0515(3)(b), F.S.

⁵² Section 212.08(5)(a), F.S.

⁵³ Section 212.08(5)(a), F.S.

⁵⁴ Section 212.08(2)(f), F.S.

⁵⁵ Section 212.08(2)(h), F.S.

⁵⁶ Section 212.08(3)(b), F.S.

- Compressed or liquefied oxygen used in aquaculture production;
- Aquaculture health products; and
- Animal health products which are applied to, administered to, or consumed by livestock or poultry for alleviation of pain or the cure or prevention of sickness, disease, or suffering, including:

For purposes of the exemptions for animal health products and aquaculture health products, the bill provides that this exemption is remedial in nature and applies retroactively, but does not create a right to a refund or credit of any tax paid before the effective date of the bill.

The bill increases the portion of a trailer's sales price exempt from the sales and use tax to \$25,000.

Purchases by Municipal Golf Courses

Present situation: Sales made to the United States government, the state, or any county, municipality, or political subdivision of the state are exempt from sales tax, *when payment is made directly to the dealer by the governmental entity*; ⁵⁷ when payment is made by another who is subsequently reimbursed by the government, the sale is generally not exempt. ⁵⁸

Proposed change: The bill provides that the phrase “when payment is made directly to the dealer by the governmental entity” includes a situation in which an entity under contract with a municipality to maintain and operate a municipally owned golf course pays for a purchase or lease for the operation or maintenance of that golf course using the golf course revenues or other funds provided by the municipality for use by that entity. The new provision applies to a municipally owned golf course that is located in a county with a population of at least 2 million residents and is the site upon which youth education programs are delivered on an ongoing basis by a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

Products Used to Control Menstrual Flow

Present situation: Products used to absorb menstrual flow are currently subject to state sales and use tax. These products include tampons, sanitary napkins, panty liners, and menstrual cups. From 1977 through 1986, the sales of products used to absorb menstrual flow in Florida were specifically exempt from sales and use tax. ⁵⁹ However, the Legislature repealed various sales tax exemptions in 1986, including products used to absorb menstrual flow. ⁶⁰ The 1986 legislation also created a commission to review the changes made by Chapter 1986-166, L.O.F., and to recommend prior to the subsequent legislative session whether to allow the repeal to remain effective. The commission's findings did not specifically address the repeal of the exemption for

⁵⁷ Section 212.08(6), F.S.

⁵⁸ *Id.*

⁵⁹ Chapter 77-193, Laws of Fla.

⁶⁰ Chapter 86-166, Laws of Fla.

products used to absorb menstrual flow, but it recommended that all sales tax exemptions not specifically recommended in the report should be repealed.⁶¹

In 2016, a class action lawsuit was filed in Leon County, Florida to challenge the state sales tax levied on the sale of products used to absorb menstrual flow.⁶² The plaintiffs argue that such products are necessary for women's health and should be exempt as common household remedies. The plaintiffs also argue that the taxation of products used to absorb menstrual flow violates the Equal Protection Clauses of both the Florida and United States Constitutions. The plaintiffs seek declaratory and injunctive relief, along with a refund of taxes. The case is currently pending in circuit court.

Of the 45 states⁶³ that currently levy sales and use tax, eight states do not impose the tax on the sale of products used to absorb menstrual flow. Illinois,⁶⁴ Maryland,⁶⁵ Massachusetts,⁶⁶ Pennsylvania,⁶⁷ Minnesota,⁶⁸ New Jersey,⁶⁹ Connecticut,⁷⁰ and New York⁷¹ have passed legislation to specifically exempt these products from sales and use tax.

Proposed change: Effective January 1, 2018, the bill creates a sales tax exemption for products used to absorb menstrual flow.

Diapers and Incontinence Products

Present situation: Certain medical products and supplies are exempt from sales and use tax, including supplies or medicine dispensed according to a prescription and other non-prescription common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease.⁷²

Alcohol wipes, bandages, and gauze are examples of common household remedies. Cosmetics⁷³ and toilet articles⁷⁴ are specifically excluded from the common household remedy exemption, notwithstanding the presence of medicinal ingredients therein. The Department of Business and

⁶¹ Sales Tax Exemption Study Commission, *Report and Recommendations of the Sales Tax Exemption Study Commission* (April, 1987).

⁶² *Wendell v. Florida Dep't. of Rev.*, No. 2016 CA 001526 (Fla. Leon Cty. Ct. July 7, 2016).

⁶³ Alaska, Delaware, Montana, New Hampshire, and Oregon do not impose state sales tax.

⁶⁴ 35 Ill. Comp. Stat. 110/3-5 (2016).

⁶⁵ Md. Tax-Gen. Code Ann., §11-211 (2016).

⁶⁶ Mass. Gen. Laws ch. 64H, § 6 (2016).

⁶⁷ 72 Pa. Cons. Stat. § 7204 (2016).

⁶⁸ Minn. Stat. §297A.67 (2016).

⁶⁹ N.J. Stat. Ann. § 54:32B-8.1 (2016).

⁷⁰ Conn. Gen. Stat. § 12-412 (2016).

⁷¹ N.Y. Tax Law §1115 (2016).

⁷² See s. 212.08(2)(a), F.S.

⁷³ Section 212.08(2)(b)2., F.S., defines "cosmetics" as articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance and also means articles intended for use as a compound of any such articles, including, but not limited to, cold creams, suntan lotions, makeup, and body lotions.

⁷⁴ Section 212.08(2)(b)3., F.S., defines "toilet articles" as any article advertised or held out for sale for grooming purposes and those articles that are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.

Professional Regulation (DBPR) prescribe and approve a list of common household remedies that qualify for the exemption, which is certified by the DOR and included in the rules promulgated by the DOR.⁷⁵ Additional items can be added to the list at the discretion of the DBPR or through a process involving a Technical Assistance Advisory Committee.⁷⁶

Certain products relating to infants are exempt, including baby food, formulas, and teething lotion.⁷⁷ However, diapers are not currently exempt from sales and use tax in Florida.⁷⁸

Proposed change: Effective January 1, 2018, the bill establishes a sales tax exemption for the following items:

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

Veterans Sales Tax Holiday

Present situation: Florida is home to almost 1.6 million veterans⁷⁹ and 20 major military installations, with eight Military Exchanges on base.⁸⁰ Military Exchanges sell consumer goods and services tax free.

Proposed change: The bill provides an annual one-day sales tax holiday on November 11, beginning in FY 2017-18. During the holiday, certain clothing and footwear that cost \$60 or less are exempt from the state sales tax and county discretionary sales surtaxes when sold to a veteran.

The bill defines a veteran as any person who served in the active military, naval, or air service and who was honorably discharged or who later received an upgraded honorable discharge. To be eligible for the sales tax holiday, a veteran must show proof of military status at the time he or she purchases the eligible items by presenting a DD Form 2, DD Form 2765, DD Form 214, veteran identification card, veteran health identification card, a valid driver license with the “V” or word “veteran” designation on it, or any other proof of veteran status issued by the Department of Highway Safety and Motor Vehicles.

The veteran’s sales tax holiday does not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and

⁷⁵ Rule 12A-1.020, F.A.C.; Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/16), available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06368> (last visited April 29, 2017).

⁷⁶ Section 212.08(14), F.S.

⁷⁷ Rule 12A-1.020, F.A.C.; Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/16), available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06368> (last visited April 29, 2017).

⁷⁸ However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempt from sales tax during sales tax holidays. See e.g. Rule 12AER16-01, F.A.C.

⁷⁹ See Department of Veterans of Affairs, State Summary, Florida, available at https://www.va.gov/vetdata/docs/SpecialReports/State_Summaries_Florida.pdf (last visited April 29, 2017).

⁸⁰ Military Exchange store locator, available at <https://www.shopmyexchange.com/exchange-stores> (last visited April 29, 2017).

- Sales within an airport, as defined in s. 330.27(2), F.S.

A dealer may choose not to participate in the annual holiday if less than five percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of clothing that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by November 1 each year, the dealer must notify the DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

Dodd-Frank Act Exemption

Present situation: Sales of tangible personal property or services from a dealer to a related party are currently subject to the sales and use tax.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010⁸¹ (Dodd-Frank) requires that certain large banks and insurers ("systemically important financial institutions") (hereinafter referred to as financial institutions) periodically submit recovery & resolution plans to the Federal Reserve and the Federal Deposit Insurance Corporation.⁸² Each plan must describe the financial institution's strategy for recovery from a financial crisis, as well as its rapid and orderly resolution in the event of material financial distress or failure of the financial institution.

Under most plans, the financial institution may create a Shared Services Entity (SSE) to provide all of the support services that are currently provided by employees of the financial institution.⁸³ The purpose of an SSE is to separate and insulate these support services, including customer support functions, from the investment and asset management side of the financial institution, thus ensuring that these support services will continue to be provided despite major losses elsewhere in the business.

Because SSE's will be separate legal entities from the affected financial institutions, sales of tangible personal property or services by SSEs to affected financial institutions will be subject to sales tax in Florida.

Proposed change: The bill provides an exemption for sales of tangible personal property or services otherwise taxable under ch. 212, F.S. by a dealer to a related party where the purchaser can show that:

- The vendor and the purchaser are either:
- Referenced as either a "covered company," as described in 12 C.F.R. s. 243.2(f), or a "material entity," as described in 12 C.F.R. s. 243.2(l), in a resolution plan that has been submitted to an agency of the United States for the purpose of satisfying the Dodd Frank Act or any successor law, or
- Separate legal entities pursuant to a divestiture directed pursuant to the Dodd Frank Act or any successor law; and

⁸¹ Pub. Law No. 111-203, H.R. 4173, 111th Cong. (July 21, 2010).

⁸² Federal Depositary Insurance Corporation, Board of Governors of the Federal Reserve System, *Guidance for 2017 s. 165(d) Annual Resolution Plan Submissions By Domestic Covered Companies that Submitted Resolution Plans in July 2015*, 14, available at <https://www.fdic.gov/news/news/press/2016/pr16031b.pdf> (last visited April 29, 2017).

⁸³ U.S.C. s. 5365(d)(5).

- The sale would not have occurred between such related entities were it not for such resolution plan or divestiture;
- The services sold by the vendor to the purchaser are performed by an employee of the vendor, or by an independent contractor hired by the vendor where the vendor paid the tax imposed under this chapter; and
- In acquiring such property or services, the vendor did not claim an exemption from the tax imposed under this chapter or by another state.

Sections 20, 22 – 23 and 41 – Sales and Use Tax, Corporate Income Tax, and Insurance Premium Tax: The Community Contribution Program

Present situation: In 1980, the Legislature established the Community Contribution Tax Credit Program (“CCTCP”) to encourage private sector participation in community revitalization and housing projects.⁸⁴ Broadly, the CCTCP offers tax credits to businesses or persons (“taxpayers”) anywhere in Florida that contribute⁸⁵ to certain projects undertaken by approved CCTCP sponsors.⁸⁶

Eligible sponsors under the CCTCP include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards.⁸⁷ As of November 2016, the CCTCP had 119 approved sponsors.⁸⁸

Eligible projects include activities undertaken by an eligible sponsor that are designed to accomplish one of the following purposes:

- To construct, improve, or substantially rehabilitate housing that is affordable to low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S.;
- To provide commercial, industrial, or public resources and facilities; or
- To improve entrepreneurial and job-development opportunities for low-income persons.⁸⁹

In addition, eligible projects must be located in an area that was designated as an enterprise zone as of May 1, 2015⁹⁰ or a Front Porch Florida Community, with two exceptions. First, any project designed to construct or rehabilitate housing for low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S., is exempt from the area requirement. Second, any project designed to provide increased access to high-speed broadband capabilities that includes coverage in a rural community that had an enterprise zone designation as of May 1, 2015, may locate the project’s infrastructure in any area of a rural county (inside or outside of the zone).

⁸⁴ Chapter 80-249, Laws of Fla. The CCTCP is one of the state incentives available under the Florida Enterprise Zone Act, which is scheduled to be repealed on December 31, 2015. Sections 290.007(3) and 290.016, F.S.

⁸⁵ Sections 212.08(5)(p)2.a., 220.183(2)(a), and 624.5105(5)(a), F.S., require community contributions to be in the form of cash or other liquid assets, real property, goods or inventory, or other physical resources.

⁸⁶ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S.

⁸⁷ See ss. 212.08(5)(p)2.c.; 220.183(2)(c); and 624.5105(2)(c), F.S.

⁸⁸ DEO, Division of Community Development, Email to House Ways & Means staff (Nov. 8, 2016) (on file with the Ways & Means Committee and the Senate Appropriations Subcommittee on Finance and Tax).

⁸⁹ ss. 212.08(5)(p)2.b.; 220.183(2)(d); 624.5105(2)(b); and 220.03(1)(t), F.S.

⁹⁰ The Florida Enterprise Zone Act was partially repealed as of December 31, 2015- See Chapter 2015-221, L.O.F.; s. 290.016, F.S.

The DEO administers the CCTCP, and its responsibilities include reviewing sponsor project proposals and tax credit applications, periodically monitoring projects, and marketing the CCTCP in consultation with the Florida Housing Finance Corporation and other statewide and regional housing and financial intermediaries.⁹¹ Once approved by the DEO, the taxpayer must claim the community contribution tax credit from the DOR.

The credit is calculated as 50 percent of the taxpayer's annual contribution, but a taxpayer may not receive more than \$200,000 in credits in any one year.⁹² The taxpayer may use the credit against corporate income tax, insurance premiums tax, or as a refund against sales tax.⁹³ Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.⁹⁴ Unused credits against sales taxes may be carried forward for three years.⁹⁵

DOR may approve \$21.4 million in annual funding for projects that provide homeownership opportunities for low-income and very-low-income households or housing opportunities for persons with special needs and \$3.5 million for all other projects. "Persons with special needs" is defined in current statute to include adults requiring independent living services, young adults formerly in foster care, survivors of domestic violence, and people receiving Social Security Disability Insurance, Supplemental Security Income, or veterans' disability benefits.⁹⁶ During Fiscal Year 2015-2016, the DEO approved 430 tax credit applications submitted by 60 eligible sponsors for eligible projects located in 32 counties. For Fiscal Year 2016-2017, as of March 16, 2017, the DEO has approved 349 tax credit applications.⁹⁷ For Fiscal Year 2014-2015, as of December 31, 2014, the DEO has approved 383 tax credit applications.⁹⁸

The Legislature extended the CCTCP in 1984, 1994, 2005, 2014, and 2015.⁹⁹ It has also amended the annual tax credit allocation of the CCTCP on numerous occasions.¹⁰⁰ The CCTCP cap, which started at \$3 million annually, is currently set at \$24.9 million. The cap has been reached every year since Fiscal Year 2001-2002.

The CCTCP expires June 30, 2018.¹⁰¹

Proposed change: The bill extends the expiration date of the CCTCP to June 30, 2019, at current funding levels.

⁹¹ Sections 212.08(5)(p)4.; 220.183(4); and 624.5105(4), F.S.

⁹² Sections 212.08(5)(p)1.; 220.183 (1)(a) and (b); and 624.5105(1), F.S.

⁹³ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S.

⁹⁴ Sections 220.183(1)(e) and (g); and 624.5105, F.S.

⁹⁵ Sections 212.08(5)(p)1.b. and f., F.S.

⁹⁶ Section 420.0004(13), F.S.

⁹⁷ Email correspondence with DEO staff (March 22, 2017 (on file with House Ways & Means Committee and on file with the Senate Appropriations Subcommittee on Finance and Tax)).

⁹⁸ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, Community Contribution Tax Credits Extension, HB 311/SB 302, p. 19, January 26, 2015 Revenue Impact Results, *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/impact0126.pdf

⁹⁹ Chs. 84-356, 94-136, 2005-282, 2014-38, and 2015-221 Laws of Fla.

¹⁰⁰ See Chs. 94-136, 98-219, 99-265, 2005-282, 2006-78, 2008-153, and 2015-221 Laws of Fla.

¹⁰¹ Chapter 2014-038, s. 15 Laws of Fla.

Sections 24 and 34 – Corporate Income Tax: The Contaminated Site Rehabilitation Tax Credit

Present situation: In 1998, the Legislature provided the Department of Environmental Protection (DEP) the direction and authority to issue tax credits as an additional incentive to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites. This corporate income tax credit may be taken in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program;¹⁰²
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.¹⁰³

Eligible tax credit applicants may receive up to \$500,000 per site per year in tax credits. Due to concern that some participants in a voluntary cleanup might only conduct enough work to eliminate or minimize their exposure to third party lawsuits, current law also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and received a Site Rehabilitation Completion Order from the DEP. This additional supplemental credit has a \$500,000 cap. Businesses are also allowed a one-time application for an additional 25 percent of the total site rehabilitation costs, up to \$500,000, for brownfield sites at which the land use is restricted to affordable housing. They may also submit a one-time application claiming 50 percent of the costs, up to \$500,000, for removal, transportation and disposal of solid waste at a brownfield site.

Site rehabilitation tax credit applications must be complete and submitted by January 31 of each year. The total amount of tax credits for all sites that may be granted by the DEP is \$5 million annually. In the event that approved tax credit applications exceed the \$5 million annual authorization, the statute provides for remaining applications to roll over into the next fiscal year to receive tax credits in first come, first served order from the next year's authorization. These tax credits may be applied toward corporate income tax in Florida. The tax credits may be transferred one time, although they may succeed to a surviving or acquiring entity after merger or acquisition.

Since 1998, the VCTC Program has awarded \$66.9 million in VCTCs. Total requests for tax credits have met or exceeded the annual authorization since 2007.¹⁰⁴ Since 2012, the approved tax credits have averaged more than \$8.3 million per year. In 2015, the Legislature approved a one-time tax credit authorization of \$21.6 million, which allowed the DEP to issue certificates for all tax credits that were approved but had not received funding. In 2016, DEP received 99 tax credit applications and approved \$10.8 million in VCTCs for site rehabilitation work completed in 2015. However, some of the tax credit recipients will not receive their certificates until 2018 because the total eligible requests received for 2015 site rehabilitation work exceeded the \$5

¹⁰² Section 376.30781, F.S.

¹⁰³ Section 220.1845, F.S.

¹⁰⁴ DEP, Florida Brownfields Redevelopment Program, 2016 Annual Report, *available at* http://www.dep.state.fl.us/Waste/quick_topics/publications/wc/brownfields/AnnualReport/2016/2015-16_FDEP_Annual.pdf (last visited April 27, 2017).

million authorization by \$5.8 million. In 2017, DEP received 133 tax credit applications in the amount of \$14.8 million in requested tax credits for site rehabilitation work completed in 2016.¹⁰⁵

Proposed change: The bill provides the amount of credits that may be awarded in Fiscal Year 2017-2018 is \$20 million, and increases the annual amount of credits that may be awarded from \$5 million to \$10 million in each fiscal year thereafter.

Section 25 – Corporate Income Tax: The Research and Development Tax Credit

Present situation: The federal “U.S. Research and Experimentation Tax Credit” was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a period of economic recession.¹⁰⁶ For the 2013 federal tax year, 16,624 companies claimed \$11.3 billion in R&D tax credits, including \$177.1 million claimed via “pass-through” entities.¹⁰⁷ At \$97.8 billion, manufacturing companies claimed the largest portion of research tax credits.¹⁰⁸

Section 220.196, F.S., authorizes an R&D tax credit against Florida’s corporate income taxes for certain businesses with qualified research expenses that received the federal credit. The tax credit is 10 percent of the difference between the current tax year’s R&D expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.

The state tax credit taken in any taxable year may not exceed 50 percent of the company’s remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to five years following the year in which the qualified research expenses were incurred.

The maximum amount of credits that may be approved by the DOR during any calendar year is \$9 million. Applications for the credit may be filed with the DOR between March 20th and March 27th for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are allocated on a prorated basis.

¹⁰⁵ DEP, Agency Analysis of 2017 HB 753, p. 5 (March 3, 2017).

¹⁰⁶ “The U.S. Research and Experimentation Tax Credit in the 1990s” by Francisco Moris. National Science Foundation Report #NSF05-316 published July 2005. Retrieved at <http://www.nsf.gov/statistics/infbrief/nsf05316/> and “The Prospects for Economic Recovery,” prepared by the Congressional Budget Office. Published February 1982. Pertinent information on pages 87-93, available at https://www.cbo.gov/sites/default/files/97th-congress-1981-1982/reports/doc03b-entire_1.pdf (last visited on April 27, 2017).

¹⁰⁷ Internal Revenue Service, Statistics of Income Division, available at <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit> (last visited April 27, 2017).

¹⁰⁸ Internal Revenue Service, Statistics of Income Division, available at <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit> (last visited April 27, 2017).

The Legislature increased the \$9 million cap for credits to \$23 million for calendar year 2016.¹⁰⁹ This cap amount was allocated as follows:

- The DOR received 131 applications during the one week application window, requesting a total of \$52,481,052 in credits.
- 118 applications were approved. Each applicant received approximately 46 percent of the amount of credit determined in their application. These 118 applications requested \$50,447,562 in credit.
- 13 applications were denied for various reasons, including withdrawal by the taxpayer, duplicate applications, application figures resulting in zero credit requested, and failure to include a required certification letter from the Department of Economic Opportunity (DEO). These 13 applications requested \$2,003,490 in credit.

Proposed change: The bill increases the maximum amount of credits that may be granted in calendar year 2018 from \$9 million to \$20 million.

Sections 26 and 50 – Corporate Income Tax: Extension of Time to File Returns

Present situation: A corporate income taxpayer is required to file a Florida income tax return in every year that it is liable for Florida corporate income tax or is required to file a federal income tax return.¹¹⁰ Returns are due on or before the 1st day of the 5th month following the close of the taxable year.¹¹¹ Typically, corporate taxpayers may receive a 6-month extension of the time to file a return for both federal and Florida returns.¹¹²

In 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.¹¹³ This federal legislation moved the filing dates for most federal corporate income taxpayers to one month later, and, for taxable years beginning on or between January 1, 2016, and January 1, 2026, it limited the normal 6-month extension period to 5 months for calendar year taxpayers. The 2016 Legislature made identical changes to the relevant provisions of Florida law.¹¹⁴

In February 2017, the Internal Revenue Service (IRS) announced that although federal law provides for a 5-month extension for certain corporate taxpayers, the IRS will continue to grant a 6-month extension to these taxpayers.¹¹⁵

Proposed change: The bill extends from 5 months to 6 months, the extension time for calendar year corporate taxpayers to file their Florida returns for taxable years beginning on or after January 1, 2016, and before January 1, 2026. The change applies to taxable years beginning on or after January 1, 2016.

¹⁰⁹ See Chapter 2015-221, s. 21, Laws of Fla.

¹¹⁰ Section 220.22, F.S.

¹¹¹ Section 220.222, F.S.

¹¹² See 26 U.S.C. s. 6081(b); s. 220.222(2)(b), F.S.

¹¹³ Pub. Law No. 114-41, H.R. 3236, 114th Cong. (July 31, 2015).

¹¹⁴ Section 16, ch. 2016-220, Laws of Fla.

¹¹⁵ IRS Article, dated February 8, 2017, available at <https://www.irs.gov/uac/rda-2017-02-08-2016-form-7004> (last visited April 27, 2017).

Section 27 – Corporate Income Tax: Payments of Estimated Tax

Present situation: Florida requires each corporate income taxpayer to declare its estimated tax for the taxable year, if the amount payable as estimated tax can be expected to be more than \$2,500.¹¹⁶ Taxpayers must pay estimated taxes in equal installments, depending on when they are required to file their declarations of estimated taxes.¹¹⁷ For the majority of taxpayers, the second estimated payment is due by June 30.¹¹⁸ Generally, if the day on which a payment is due falls on a Saturday, Sunday, or legal holiday, payments may be made on the next succeeding business day.¹¹⁹ When June 30 is a Saturday or Sunday, payments made on the following Monday fall into the next state fiscal year.

Proposed change: The bill provides that, notwithstanding any administrative rule or determination of the Department of Revenue to the contrary, an estimated payment that would otherwise be due on the last Saturday or Sunday of June must be paid by the last Friday of June.

Section 28 – Motor Vehicle Title and Registration Administration: Tax Collectors Contracting with License Tag Agents

Present situation: Section 320.03, F.S., provides that county tax collectors are authorized agents of the Department of Highway Safety and Motor Vehicles (DHSMV) for the purpose of issuing registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants. Tax collectors are given system equipment, software, and access to the DHSMV's Florida Real Time Vehicle Information System (FRVIS) to perform these tasks. The Florida Statutes specify the service fees tax collectors are authorized to collect in exchange for providing these registration and titling services.¹²⁰ Additionally, tax collectors are required to keep full and complete records of all validation stickers, mobile home stickers, or other properties received by the DHSMV, and electronically transfer funds collected into the State Treasury no later than five working days after the close of business on the day the funds were received.¹²¹

Although Florida law references “license tag agents” and “private tag agents” in various motor vehicle license provisions,¹²² there are no statutory provisions that expressly authorize DHSMV or tax collectors to enter into agreements with private license tag agents to provide these services. However, according to the DHSMV, there are over 50 private license tag agencies within the state.¹²³ Most of these private agents are located in counties that do not have an elected tax collector (specifically, Miami-Dade and Broward) and contract with the county to be a branch office for the county tag agency.¹²⁴ Additionally, these private license tag agents are

¹¹⁶ Section 220.24(1), F.S.

¹¹⁷ Section 220.33, F.S.

¹¹⁸ Section 220.33(1), F.S.

¹¹⁹ See e.g. Rule 12C-1.0222(1)(a), Fla. Admin. Code (relating to filing of corporate income tax returns).

¹²⁰ See ss. 320.04 and 319.32, F.S.

¹²¹ Section 320.03(3), F.S.

¹²² See ss. 320.03(4) and (8), and 320.04(1) and (2), F.S.

¹²³ Spreadsheet from the DHSMV, *Private Tag Agency List* (April 27, 2017) (on file with the Senate Appropriations Subcommittee on Finance and Tax).

¹²⁴ *Id.* and The Florida Senate, *Interim Project Report 2007-138, Services Provided by License Tag Agents* (Oct. 2006), available at http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-138tr.pdf at p.5. (last visited April 28, 2017).

authorized by county ordinance to charge fees to consumers in addition to the fees authorized in Florida Statutes.¹²⁵

According to the DHSMV, the DHSMV enters into a Memorandum of Understanding (MOU) with tax collectors and private license tag agents to ensure the DHSMV retains oversight of such agents by providing that:¹²⁶

- Agents are subject to any restrictions, limitations, or conditions enacted by the Florida Legislature;
- Tax collectors and the DHSMV may perform quality assurance audits;
- Tag agents are subject to information confidentiality agreements and must retain records as required by the state;
- The DHSMV may, at any time during normal business hours, without prior notice, inspect and audit all registration records and processes required by such agreement; and
- The DHSMV has sole discretion to terminate such agreement for cause.

Section 320.03(4), F.S., provides that, contingent upon state funds being made available for FRVIS, the system shall be installed in every tax collector's and license tag agent's office in accordance with a schedule established by DHSMV in consultation with the tax collectors. DHSMV does not currently charge tax collectors or agents for use of the system. According to the DHSMV, costs associated with the hardware, installation, annual maintenance, and the annual circuit costs for use of the systems range from approximately \$2,200 to \$2,700 per workstation, depending on the number of workstations.¹²⁷ In addition, there is a recurring cost of approximately \$750 to \$1,265 per workstation, depending on the number of workstations.

Proposed change: The bill provides that a tax collector or, in a charter county with an appointed tax collector, the county commission, has the sole authority to enter into a contract with a license tag agent for the operation of a branch office to issue and renew license tag registrations and motor vehicle titles. At the discretion of the tax collector, the contract may include a convenience fee if the tax collector does not reduce such services at any other tax collector branch office. The contracted license tag agent must pay to the department any costs incurred by the department for the initial purchase and routine maintenance of any necessary equipment for such license tag agent.

Section 29-31 -- Highway Safety Fees: Boat Trailer Fees for 501 (c)(3) Organizations

Present situation: Florida law imposes annual license taxes and one-time registration fees for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, trailers, and mobile

¹²⁵ For an example of such county regulations and a fee schedule, see Miami-Dade Implementing Order No.: 4-83, *Rules Regulations and Fee Schedule for Branch Auto Tag Agencies and Fees Paid by Agencies to the County* (Sept. 2007) available at <http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/ao4-83.pdf> (last visited April 28, 2017).

¹²⁶ See Memorandum of Understanding Between the Florida DHSMV, the Tax Collector for Broward County, and Private Auto Tag Agency, a License Plate Agent in Broward County, Florida, available at http://205.166.161.204/docs/2016/CCCM/20160614_502/22134_Exhibit%202%20MOU%20New.pdf (last visited April 28, 2017).

¹²⁷ Email from the DHSMV, *Estimated Tax Collector Office Costs* (April 27, 2017) (on file with the Senate Committee on Transportation).

homes.¹²⁸ The amount of the fee depends on the type and size of the vehicle. The annual tax and surcharge savings on a trailer weighing 500 lbs. or less is \$21.10.

Proposed change: The bill provides an exemption from the annual license tax and surcharges for any marine boat trailer owned and operated by a nonprofit organization that is exempt under s. 501(c)(3) of the Internal Revenue Code and which is used exclusively in carrying on their customary nonprofit activities.

Sections 32-33 – Motor Fuel Tax: Local Option Surtaxes

Present situation: Chapter 336, F.S., provides clear direction on the administration of rate changes for ninth-cent and local option fuel taxes imposed after July 1, 2002. For taxes imposed prior to July 2002, however, the statutes do not clearly identify adoption dates for ordinances or the length of time the adopted ordinance will remain in effect.

Proposed change: The bill provides specific guidelines and clarification for the notification, adoption, and expiration of the ninth-cent fuel taxes imposed prior to July 2002. For those tax levies, any re-imposition would be required to be levied before July 1 to allow the Department time to make any necessary changes to distribution programs.

Sections 37 - 39 – Reemployment Assistance Contributions: Due Dates and Waiver

Present situation: Due dates for reemployment tax installment payments and annual filings are provided for by statute and do not allow for additional time when the due dates fall on a Saturday, Sunday, or holiday. Quarterly filing due dates are provided for by rule and have provisions allowing later due dates when the date falls on a weekend or holiday.¹²⁹

Florida law requires certain employers to file their Employers Quarterly Report electronically.¹³⁰ When employers fail to file electronically as required, current law imposes a penalty. The tax collection service provider (the DOR) has no flexibility to waive the penalty.

Proposed change: The bill allows for annual filings and installment payments to be submitted the next day that is not a Saturday, Sunday, or holiday or any other day when the United States Postal Service is closed.

The bill allows a tax collection service provider (the DOR) to waive the penalty imposed for a failure to file electronically if the tax collection service provider finds a penalty to be inequitable. Grounds for inequity include the death or serious illness of the person who prepares and files the report, destructions of the business records by fire or another casualty, or unscheduled and unavoidable computer downtime.

¹²⁸ Section 320.08, F.S.

¹²⁹ Sections 443.131 and 443.141, F.S.

¹³⁰ Section 443.163, F.S.

Section 40 – Alcoholic Beverage Tax: Definition of Beer

Present situation: Section 563.01, F.S., defines “beer” and “malt beverage” to mean all brewed beverages containing malt. Section 534.01, F.S., defines “wine,” in part, to mean all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products. Section 565.01, F.S., defines “liquor” to mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

Pursuant to the Florida Beverage Law, spirituous seltzer beverages and similar products that do not contain malt and are not made from fresh fruits are classified as liquor for the purpose of brand registration in Florida.¹³¹

Alcoholic beverages that are not classified as a malt beverage or as wine, which contain less than 17.259 percent alcohol by volume, are subject to alcoholic beverage excise taxes at a rate of \$2.25 per gallon. However, brewed beverages that contain malt are subject to an excise tax rate of \$0.48 per gallon.

Some alcoholic beverages that meet the federal definition of “beer” do not contain malt.

Proposed change: The bill amends the definition of “beer” to align with the federal definition of beer set forth in 27-CFR 25.11, except that this bill limits “beer” to those alcoholic beverages that are under six percent alcohol by volume.

Sections 43-44 – Sales and Use Tax: One-Time Sales Tax Holidays

Present situation: Since 1998, the Legislature has enacted 20 temporary periods (commonly called “sales tax holidays”) during which time certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays--Florida has enacted a “back to school” sales tax holiday 15 times since 1998. The following table describes the dates, length, items, and value of the exemption during the back-to-school sales tax holidays in Florida:

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books	Computers	School Supplies
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A

¹³¹ Florida Department of Business and Professional Regulation, *Industry Notice 2017-001*, available at <http://www.myfloridalicense.com/dbpr/abt/documents/2017.01.17%20Industry%20Notice%202017-001%20Spirituous%20Seltzer%20Beverages.pdf> (last visited April 29, 2017).

July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	N/A	\$10 or less
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 3-5, 2012	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 2-4, 2013	3 days	\$75 or less	\$75 or less	N/A	\$750 or less	\$15 or less
August 1-3, 2014	3 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 7 - 16, 2015	10 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 5 - 7, 2016	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less

Hurricanes and Disasters in Florida--In 2016, the Florida Office of Insurance Regulation estimated a gross probable loss of over \$1 billion due to hurricanes Hermine and Mathew in 2016,¹³² \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four in 2005.¹³³ Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.¹³⁴ The Florida Division of Emergency Management (DEM) recommends having a disaster supply kit that contains a battery operated radio, flashlight, batteries, and first-aid kit.¹³⁵

Proposed change: The bill creates a ten-day sales tax holiday from August 4, 2017, through August 13, 2017 (*Back-to-School Holiday*). During the holiday, the following items that cost \$100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an “article of wearing apparel intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill exempts “school supplies” that cost \$15 or less per item during the holiday.

Also exempt is the first \$1,000 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use. This includes tablets, laptops, monitors,

¹³² Florida Office of Insurance Regulation, Florida Office of Insurance Regulation Catastrophe Report, *available at* <http://www.flor.com/Sections/PandC/ProductReview/CatastropheReporting.aspx> (last visited April 29, 2017).

¹³³ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, *available at* <http://www.flor.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited April 29, 2017).

¹³⁴ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, *available at* <http://www.flor.com/siteDocuments/HurricaneSummary2008.pdf> (last visited April 29, 2017).

¹³⁵ Florida Division of Emergency Management, *Disaster Supply Kit*, *available at* <http://www.floridadisaster.org/supplykit.htm> (last visited April 29, 2017).

input devices, and non-recreational software. Cell phones, furniture, devices, and software intended primarily for recreational use are not exempted.

The bill allows the holiday to apply at the option of the dealer if less than five percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, the dealer must notify the DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The bill authorizes the DOR to adopt emergency rules to implement the provisions of each holiday.

The bill appropriates \$241,200 in nonrecurring funds from the General Revenue Fund to the Department of Revenue to implement the provisions of the holiday.

The bill also creates a nine-day sales tax holiday from May 27, 2017, through June 4, 2017, for specified items related to disaster preparedness (*Disaster Preparedness Sales Tax Holiday*). During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A self-contained first-aid kit selling for \$30 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less; and
- Reusable ice selling for \$10 or less.

The bill appropriates \$290,580 in Fiscal Year 2016-2017 nonrecurring funds from the General Revenue Fund to the Department of Revenue to implement the provisions of the holiday.

The Back-to-school and Disaster Preparedness holidays do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

Section 45 – Sales and Use Tax: College or University Textbooks Sales Tax Exemption

Present situation: In 2015, the Legislature created a one-year sales tax exemption for textbooks required or recommended for a course offered by a public postsecondary educational institution

or a nonpublic postsecondary educational institution that is eligible to participate in the tuition assistance programs.¹³⁶

The law defined “textbooks” to include educational materials in printed or digital format, that are required or recommended for use in a course or field of study.

To obtain the tax exemption, a student must have provided the vendor either a physical or an electronic copy of:

- His or her student identification number; and
- Either an applicable course syllabus or list of required and recommended textbooks and instructional materials.

The vendor must have maintained proper documentation, as prescribed by rule, to identify either complete transactions or the portion of a transaction, which involves the sale of tax-exempted textbooks.

Proposed change: The bill exempts the sale of textbooks and instructional materials from July 1, 2017 through June 30, 2018, using the same requirements as in 2015.

Sections 46 and 48 grant the Department of Revenue emergency rulemaking authority to implement the annual veterans sales tax holiday created by the bill and appropriate \$121,398 in recurring funds and \$11,730 in nonrecurring funds from the Operating Trust Fund to the Department of Revenue to implement the provisions related to the veterans sales tax holiday.

Section 49 provides that amendments made by the bill to exempt from sales tax certain animal health products and aquaculture health products apply retroactively, but do not create a basis for an assessment or create a right to a refund or credit of tax paid before the effective date of the bill.

Section 51 appropriates \$149,818 in nonrecurring funds from the General Revenue Fund to the Department of Revenue to implement the sales tax exemptions for products used to absorb menstrual flow, diapers and incontinence products, and the sales tax rate reduction on the lease of commercial rental property.

Section 52 provides an effective date of July 1, 2017, unless otherwise expressly stated, and provides that section 52 is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18(b), of the State Constitution may apply because the provision in the bill for a property tax discount for certain property used to provide affordable housing and sales tax exemptions contained in the bill may reduce county and municipal government authority to raise revenue.

¹³⁶ Chapter 2015-221, s. 29, Laws of Fla.

The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

In total, HB 7109, 1st Eng., will reduce Fiscal Year 2017-2018 revenues by \$296.7 million, with a \$276.2 million recurring reduction. General Revenue receipts are reduced in Fiscal Year 2017-2018 by \$238.5 million, with a \$212.2 million recurring reduction. State trust fund receipts are reduced in Fiscal Year 2017-2018 by \$2.6 million, and recurring. Local government receipts are reduced in Fiscal Year 2017-2018 by \$55.6 million, with a \$61.4 million recurring reduction.

Non-recurring General Revenue and local government receipts in years after Fiscal Year 2017-2018, are reduced by \$480.4 million and \$61.1 million, respectively.

The total tax reductions proposed by the bill are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of \$954.1 million in tax reductions proposed by the bill is the sum of \$276.1 million (recurring, excluding appropriations), \$136.7 million (pure nonrecurring in Fiscal Year 2017-18), and \$541.3 million (pure nonrecurring after Fiscal Year 2017-2018).

The fiscal impact is detailed in the table on the next page.

Fiscal Year 2017-18 Estimated Fiscal Impacts (millions of \$)								
	General Revenue		State Trust Funds		Local		Total	
<u>Issue</u>	<u>1st Yr</u>	<u>Recur.</u>	<u>1st Yr</u>	<u>Recur.</u>	<u>1st Yr</u>	<u>Recur.</u>	<u>1st Yr</u>	<u>Recur.</u>
<u>Sales Tax</u> : Business Rent/1.5% for 2 yrs/0.5% Perm.								
<u>Sales Tax</u> : Business Rent 1.0%; 2 year	(112.6)				(14.5)		(127.1)	-
<u>Sales Tax</u> : Business Rent 0.5%; Perm	(56.3)	(135.1)			(7.3)	(17.5)	(63.6)	(152.6)
<u>Sales Tax</u> : Tax Holiday/"Back-to-School" [Aug 4-13]	(56.0)	-	(*)	-	(14.3)	-	(70.3)	-
<u>Sales Tax</u> : Tax Holiday/Disaster Preparedness	(5.3)	-	(*)	-	(1.4)	-	(6.7)	-
<u>Sales Tax</u> : Veterans' Tax Holiday/Annual	(1.4)	(1.4)	(*)	(*)	(0.3)	(0.3)	(1.7)	(1.7)
<u>Sales Tax</u> : Diapers & Incontinence Products	(18.0)	(43.1)	(*)	(*)	(4.6)	(11.0)	(22.6)	(54.1)
<u>Sales Tax</u> : Hygiene Products	(3.8)	(8.9)	(*)	(*)	(1.0)	(2.3)	(4.8)	(11.2)
<u>Sales Tax</u> : College Textbooks (1 Yr)	(33.3)	-	(*)	-	(8.5)	-	(41.8)	-
<u>Sales Tax</u> : Agriculture/Animal Health & Other	(10.5)	(10.9)	-	-	(2.8)	(2.7)	(13.3)	(13.6)
<u>Sales Tax</u> : Admissions Resales	(2.2)	(2.4)	(*)	(*)	(0.6)	(0.6)	(2.8)	(3.0)
<u>Sales Tax</u> : Dodd-Frank Exemption	(1.6)	(7.5)	(*)	(*)	(0.3)	(1.0)	(1.9)	(8.5)
<u>Sales Tax</u> : Municipally Owned Golf Courses	(0.2)	(0.2)	(*)	(*)	(*)	(*)	(0.2)	(0.2)
<u>Ad Valorem</u> : Inventory Definition	-	-	-	-	-	(0.2)	-	(0.2)
<u>Ad Valorem</u> : Nonprofit Homes for the Aged								
<u>Ad Valorem</u> : Affordable Housing	-	-	-	-	-	(25.8)	-	(25.8)
<u>Beverage Tax</u> : Beer/Malt Beverage Definitions	(**)	(**)	(**)	(**)	(**)	(**)	(**)	(**)
<u>Corp Income Tax</u> : Brownfields Credit Increase	(15.0)	(5.0)	-	-	-	-	(15.0)	(5.0)
<u>Corp Income Tax</u> : R&D Credit Increase	(7.9)	-	-	-	-	-	(7.9)	-
<u>HSMV Fees</u> : Boat Trailers Fees for 501(c)(3)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
<u>DOR Registration Fees and Administration</u>	(0.1)	(0.2)	(*)	(*)	-	-	(0.1)	(0.2)
<u>Appropriations</u> : Tax Holidays & Admin	(0.7)	-	(0.1)	(0.1)	-	-	(0.8)	(0.1)
<u>Corp Income Tax</u> : Payment Due Date	83.9	-	-	-	-	-	83.9	-
<u>Cigarette Tax</u> : Biomedical Research	2.5	2.5	(2.5)	(2.5)	-	-	-	-
2017-18 Total	(238.5)	(212.2)	(2.6)	(2.6)	(55.6)	(61.4)	(296.7)	(276.2)
<u>Non-recurring Impacts After FY 2017-18</u>	Cash		Cash		Cash		Cash	
<u>Sales/Corporate/Ins. Prem.</u> : Comm Cont Tax Credit Extension (1 Yr)	(22.5)	-	(*)	-	(2.4)	-	(24.9)	-
<u>Corp Income Tax</u> : R&D Credit Increase	(3.1)	-	-	-	-	-	(3.1)	-
<u>Sales Tax</u> : Business Rent/1.5% for 2 yrs								
<u>Sales Tax</u> : Business Rent FY 2018-19	(282.9)				(36.5)		(319.4)	
<u>Sales Tax</u> : Business Rent FY 2019-20	(171.7)				(22.2)		(193.9)	
Bill Total	(718.7)	(212.2)	(2.6)	(2.6)	(116.7)	(61.4)	(838.0)	(276.2)
Recurring + Pure Nonrecurring =								(954.1)

B. Private Sector Impact:

The bill will remove, either during specific periods of time or on an ongoing basis, the sales tax on various purchases of tangible personal property, and reduce the sales tax rate on the rental of commercial real estate.

The bill will reduce the corporate income tax liability for certain taxpayers that utilize the tax credit programs affected by the bill.

C. Government Sector Impact:

The bill appropriates a total of \$814,726. The bill:

- Appropriates \$241,200 to implement the back-to-school sales tax holiday;
- Appropriates \$290,580 to implement the disaster preparedness sales tax holiday;
- Appropriates \$149,818 to implement the commercial rent tax rate reduction and the new exemptions for diapers, incontinence products, and products used to control menstrual flow; and
- Appropriates \$133,128 to administer the annual veterans' clothing sales tax holiday.

Most of the appropriations are needed to pay the cost of notifying several hundred thousand sales tax dealers of either the temporary or permanent law changes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 192.001; 196.1975; 196.1978; 198.30; 206.02; 206.021; 206.022; 206.03; 206.045; 206.41; 206.9943, 206.9952; 206.9865; 206.998; 210.20; 212.031; 212.04; 212.0515; 212.0596; 212.08; 212.18; 220.03; 220.183; 220.1845; 220.196; 220.222; 220.33; 320.04; 320.08; 320.10; 320.102; 336.021; 336.025; 376.30781; 376.70; 376.75; 443.131; 443.141; 443.163; 563.01; 624.5105; and 733.2121.

The bill repeals the following sections of the Florida Statutes: 206.405 and 206.406.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



945880

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (5) of section
125.0104, Florida Statutes, is amended to read:

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

(5) AUTHORIZED USES OF REVENUE.—

(a) All tax revenues received pursuant to this section by a



945880

county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

a. Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied; ~~or~~

b. Auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation pursuant to 26 U.S.C. s. 501(c)(3) and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

~~c.~~ b. Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

2. To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

3. To promote and advertise tourism in this state and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

4. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations



945880

in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; or

5. To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. However, any funds identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties of fewer than 100,000 population, up to 10 percent of the revenues from the tourist development tax may be used for beach park facilities.

Subparagraphs 1. and 2. may be implemented through service contracts and leases with lessees that have sufficient expertise or financial capability to operate such facilities.

Section 2. Paragraph (c) of subsection (11) of section 192.001, Florida Statutes, is amended to read:

192.001 Definitions.—All definitions set out in chapters 1 and 200 that are applicable to this chapter are included herein. In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(11) "Personal property," for the purposes of ad valorem



945880

taxation, shall be divided into four categories as follows:

(c)1. "Inventory" means only those chattels consisting of items commonly referred to as goods, wares, and merchandise (as well as inventory) which are held for sale or lease to customers in the ordinary course of business. Supplies and raw materials shall be considered to be inventory only to the extent that they are acquired for sale or lease to customers in the ordinary course of business or will physically become a part of merchandise intended for sale or lease to customers in the ordinary course of business. Partially finished products which when completed will be held for sale or lease to customers in the ordinary course of business shall be deemed items of inventory. All livestock shall be considered inventory. Items of inventory held for lease to customers in the ordinary course of business, rather than for sale, shall be deemed inventory only prior to the initial lease of such items. For the purposes of this section, fuels used in the production of electricity shall be considered inventory.

2. "Inventory" also means construction and agricultural equipment weighing 1,000 pounds or more that is returned to a dealership under a rent-to-purchase option and held for sale to customers in the ordinary course of business. This subparagraph may not be considered in determining whether property that is not construction and agricultural equipment weighing 1,000 pounds or more that is returned under a rent-to-purchase option is inventory under subparagraph 1.

Section 3. Effective upon this act becoming a law, subsection (9) of section 196.012, Florida Statutes, is amended to read:



945880

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(9) "Nursing home" or "home for special services" means an institution that ~~which~~ possesses a valid license under chapter 400 or part I of chapter 429 on January 1 of the year for which exemption from ad valorem taxation is requested.

Section 4. The amendment made by this act to s. 196.012, Florida Statutes, first applies to the 2017 property tax roll.

Section 5. Paragraph (c) is added to subsection (4) of section 196.1975, Florida Statutes, to read:

196.1975 Exemption for property used by nonprofit homes for the aged.—Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(4)

(c) Each not-for-profit corporation applying for an exemption under paragraph (a) must file with its annual application for exemption an affidavit approved by the Department of Revenue from each person who occupies a unit or apartment which states the person's income. The affidavit is prima facie evidence of the person's income. The corporation is not required to provide an affidavit from a resident who is a totally and permanently disabled veteran who meets the requirements of s. 196.081. If, at a later time, the property appraiser determines that additional documentation proving an affiant's income is necessary, the property appraiser may request such documentation.

Section 6. Effective January 1, 2018, section 196.1978, Florida Statutes, is amended to read:



945880

196.1978 Affordable housing property exemption.—

(1) Property used to provide affordable housing to eligible persons as defined by s. 159.603 and natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, which is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property that provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 are exempt from ad valorem taxation to the extent authorized under s. 196.196. All property identified in this section must comply with the criteria provided under s. 196.195 for determining exempt status and applied by property appraisers on an annual basis. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole member.

(2)(a) Notwithstanding ss. 196.195 and 196.196, property in a multifamily project that meets the requirements of this paragraph is considered property used for a charitable purpose and shall receive a 50 percent discount from the amount of ad valorem tax otherwise owed beginning with the January 1 assessment after the 15th completed year of the term of the recorded agreement on those portions of the affordable housing property that provide housing to natural persons or families



945880

meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004. The multifamily project must:

1. Contain more than 70 units that are used to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004; and

2. Be subject to an agreement with the Florida Housing Finance Corporation recorded in the official records of the county in which the property is located to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004.

This discount terminates if the property no longer serves extremely-low-income, very-low-income, or low-income persons pursuant to the recorded agreement.

(b) To receive the discount under paragraph (a), a qualified applicant must submit an application to the county property appraiser by March 1.

(c) The property appraiser shall apply the discount by reducing the taxable value on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004 before certifying the tax roll to the tax collector.

1. The property appraiser shall first ascertain all other applicable exemptions, including exemptions provided pursuant to local option, and deduct all other exemptions from the assessed value.



945880

185 2. Fifty percent of the remaining value shall be subtracted
186 to yield the discounted taxable value.

187 3. The resulting taxable value shall be included in the
188 certification for use by taxing authorities in setting millage.

189 4. The property appraiser shall place the discounted amount
190 on the tax roll when it is extended.

191 Section 7. Effective upon this act becoming a law and
192 operating retroactively to January 1, 2017, section 196.1983,
193 Florida Statutes, is amended to read:

194 196.1983 Charter school exemption from ad valorem taxes.—
195 Any facility, or portion thereof, used to house a charter school
196 whose charter has been approved by the sponsor and the governing
197 board pursuant to s. 1002.33(7) shall be exempt from ad valorem
198 taxes. For leasehold properties, the landlord must certify by
199 affidavit to the charter school that the required lease payments
200 under the lease, whether paid to the landlord or on behalf of
201 the landlord to a third party, will ~~shall~~ be reduced to the
202 extent of the exemption received. The owner of the property
203 shall disclose to a charter school the full amount of the
204 benefit derived from the exemption and the method for ensuring
205 that the charter school receives such benefit. The charter
206 school shall receive the full benefit derived from the exemption
207 through either an annual or monthly credit to the charter
208 school's lease payments.

209 Section 8. Effective upon this act becoming a law, section
210 198.30, Florida Statutes, is amended to read:

211 198.30 Circuit judge to report names of decedents, etc.—
212 Each circuit judge of this state shall, on or before the 10th
213 day of every month, notify the Agency for Health Care



945880

Administration department of the names of all decedents; the names and addresses of the respective personal representatives, administrators, or curators appointed; the amount of the bonds, if any, required by the court; and the probable value of the estates, in all estates of decedents whose wills have been probated or propounded for probate before the circuit judge or upon which letters testamentary or upon whose estates letters of administration or curatorship have been sought or granted, during the preceding month; and such report shall contain any other information that ~~which~~ the circuit judge may have concerning the estates of such decedents. ~~In addition, a copy of this report shall be provided to the Agency for Health Care Administration.~~ A circuit judge shall also furnish forthwith such further information, from the records and files of the circuit court in regard to such estates, as the department may from time to time require.

Section 9. Effective January 1, 2018, subsections (2), (3), and (4), paragraph (a) of subsection (7), and paragraph (b) of subsection (8) of section 206.02, Florida Statutes, are amended to read:

206.02 Application for license; temporary license; terminal suppliers, importers, exporters, blenders, biodiesel manufacturers, and wholesalers.—

(2) To procure a terminal supplier license, a person shall file with the department an application under oath, and in such form as the department may prescribe, setting forth:

(a) The name under which the person will transact business within the state and that person's registration number under s. 4101 of the Internal Revenue Code.



945880

(b) The location, with street number address, of his or her principal office or place of business and the location where records will be made available for inspection.

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such person is a partnership, or of the principal officers, if such person is a corporation or association; and, if such person is a corporation organized under the laws of another state, territory, or country, he or she shall also indicate the state, territory, or country where the corporation is organized and the date the corporation was registered with the Department of State as a foreign corporation authorized to transact business in the state.

~~The application shall require a \$30 license tax. Each license must shall be renewed annually through application, including an annual \$30 license tax.~~

(3) To procure an importer, exporter, or blender of motor fuels license, a person shall file with the department an application under oath, and in such form as the department may prescribe, setting forth:

(a) The name under which the person will transact business within the state.

(b) The location, with street number address, of his or her principal office or place of business and the location where records will be made available for inspection.

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such person is a partnership, or of the principal officers, if such person is a



945880

corporation or association; and, if such person is a corporation organized under the laws of another state, territory, or country, he or she shall also indicate the state, territory, or country where the corporation is organized and the date the corporation was registered with the Department of State as a foreign corporation authorized to transact business in the state.

~~The application shall require a \$30 license tax. Each license must shall be renewed annually through application, including an annual \$30 license tax.~~

(4) To procure a wholesaler of motor fuel license, a person shall file with the department an application under oath and in such form as the department may prescribe, setting forth:

(a) The name under which the person will transact business within the state.

(b) The location, with street number address, of his or her principal office or place of business within this state and the location where records will be made available for inspection.

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such person is a partnership, or of the principal officers, if such person is a corporation or association; and, if such person is a corporation organized under the laws of another state, territory, or country, he or she shall also indicate the state, territory, or country where the corporation is organized and the date the corporation was registered with the Department of State as a foreign corporation authorized to transact business in the state.



945880

~~The application shall require a \$30 license tax. Each license must shall be renewed annually through application, including an annual \$30 license fee.~~

(7) (a) If all applicants for a license hold a current license in good standing of the same type and kind, the department shall issue a temporary license upon the filing of a completed application, ~~payment of all fees,~~ and the posting of adequate bond. A temporary license shall automatically expire 90 days after its effective date or, prior to the expiration of 90 days or the period of any extension, upon issuance of a permanent license or of a notice of intent to deny a permanent license. A temporary license may be extended once for a period not to exceed 60 days, upon written request of the applicant, subject to the restrictions imposed by this subsection.

(8)

(b) Notwithstanding the provisions of this chapter requiring a license ~~tax~~ and a bond or criminal background check, the department may issue a temporary license as an importer or exporter to a person who holds a valid Florida wholesaler license or to a person who is an unlicensed dealer. A license may be issued under this subsection only to a business that has a physical location in this state and holds a valid Florida sales and use tax certificate of registration or that holds a valid fuel license issued by another state.

Section 10. Effective January 1, 2018, subsection (3) and paragraph (b) of subsection (5) of section 206.021, Florida Statutes, are amended to read:

206.021 Application for license; carriers.—



945880

(3) ~~The application shall require a \$30 license tax.~~ Each license must ~~shall~~ be renewed annually through application, ~~including an annual \$30 license tax.~~

(5)

(b) Notwithstanding the provisions of this chapter requiring a license ~~tax~~ and a bond or criminal background check, the department may issue a temporary license as a carrier to a person who holds a valid Florida wholesaler, importer, exporter, or blender license or to a person who is an unlicensed dealer. A license may be issued under this subsection only to a business that has a physical location in this state and holds a valid Florida sales and use tax certificate of registration or that holds a valid fuel license issued by another state.

Section 11. Effective January 1, 2018, subsection (2) of section 206.022, Florida Statutes, is amended to read:

206.022 Application for license; terminal operators.—

(2) ~~The application shall require a \$30 license tax.~~ Each license shall be renewed annually through application, ~~including an annual \$30 license tax.~~

Section 12. Effective January 1, 2018, subsection (1) of section 206.03, Florida Statutes, is amended to read:

206.03 Licensing of terminal suppliers, importers, exporters, and wholesalers.—

(1) The application in proper form having been accepted for filing, ~~the filing fee paid,~~ and the bond accepted and approved, except as provided in s. 206.05(1), the department shall issue to such person a license to transact business in the state, subject to cancellation of such license as provided by law.

Section 13. Effective January 1, 2018, section 206.045,



945880

Florida Statutes, is amended to read:

~~206.045 Licensing period; cost for license issuance.—~~
Beginning January 1, 1998, the licensing period under this
chapter shall be a calendar year, or any part thereof. ~~The cost~~
~~of any such license issued pursuant to this chapter shall be~~
~~\$30.~~

Section 14. Effective January 1, 2018, ss. 206.405 and
206.406, Florida Statutes, are repealed.

Section 15. Effective January 1, 2018, paragraph (c) of
subsection (5) of section 206.41, Florida Statutes, is amended
to read:

206.41 State taxes imposed on motor fuel.—

(5)

(c)1. No refund may be authorized unless a sworn
application therefor containing such information as the
department may determine is filed with the department not later
than the last day of the month following the quarter for which
the refund is claimed. However, when a justified excuse for late
filing is presented to the department and the last preceding
claim was filed on time, the deadline for filing may be extended
an additional month. No refund will be authorized unless the
amount due is for \$5 or more for any refund period and unless
application is made upon forms prescribed by the department.

2. Claims made for refunds provided pursuant to subsection
(4) shall be paid quarterly. ~~The department shall deduct a fee~~
~~of \$2 for each claim, which fee shall be deposited in the~~
~~General Revenue Fund.~~

Section 16. Effective January 1, 2018, subsection (3) of
section 206.9865, Florida Statutes, is amended to read:



945880

206.9865 Commercial air carriers; registration; reporting.—
(3) The application must be renewed annually ~~and the fee~~
~~for application or renewal is \$30.~~

Section 17. Effective January 1, 2018, subsection (3) of
section 206.9943, Florida Statutes, is amended to read:

206.9943 Pollutant tax license.—

(3) The license must be renewed annually, ~~and the fee for~~
~~original application or renewal is \$30.~~

Section 18. Effective January 1, 2018, subsection (9) of
section 206.9952, Florida Statutes, is amended to read:

206.9952 Application for license as a natural gas fuel
retailer.—

(9) ~~The license application requires a license fee of \$5.~~
Each license shall be renewed annually by submitting a
reapplication ~~and the license fee~~ to the department. ~~The license~~
~~fee shall be paid to the department for deposit into the General~~
~~Revenue Fund.~~

Section 19. Effective January 1, 2018, section 206.998,
Florida Statutes, is amended to read:

206.998 Applicability of specified sections of parts I and
II.—The provisions of ss. 206.01, 206.02, 206.025, 206.026,
206.027, 206.028, 206.03, 206.05, 206.055, 206.06, 206.07,
206.075, 206.09, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15,
206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204,
206.205, 206.21, 206.215, 206.22, 206.23, 206.24, 206.25,
206.27, 206.28, ~~206.405, 206.406,~~ 206.41, 206.413, 206.43,
206.44, 206.48, 206.485, 206.49, 206.56, 206.59, 206.606,
206.608, and 206.61 of part I of this chapter and ss. 206.86,
206.872, 206.874, 206.8745, 206.88, 206.90, and 206.93 of part



945880

II of this chapter shall, as far as lawful or practicable, be applicable to the tax levied and imposed and to the collection thereof as if fully set out in this part. However, any provision of any such section does not apply if it conflicts with any provision of this part.

Section 20. Paragraph (b) of subsection (2) of section 210.20, Florida Statutes, is amended to read:

210.20 Employees and assistants; distribution of funds.—

(2) As collections are received by the division from such cigarette taxes, it shall pay the same into a trust fund in the State Treasury designated "Cigarette Tax Collection Trust Fund" which shall be paid and distributed as follows:

(b) Beginning July 1, 2004, and continuing through June 30, 2013, the division shall from month to month certify to the Chief Financial Officer the amount derived from the cigarette tax imposed by s. 210.02, less the service charges provided for in s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 1.47 percent of the net collections, and that amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. 1004.43, by warrant drawn by the Chief Financial Officer. Beginning July 1, 2014, and continuing through June 30, 2053 ~~2033~~, the division shall from month to month certify to the Chief Financial Officer the amount derived from the cigarette tax imposed by s. 210.02, less the service charges provided for in s. 215.20 and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, which shall be deposited



945880

into the Alcoholic Beverage and Tobacco Trust Fund, specifying an amount equal to 4.04 percent of the net collections, and that amount shall be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute, established under s. 1004.43, by warrant drawn by the Chief Financial Officer. These funds are appropriated monthly out of the Cigarette Tax Collection Trust Fund, to be used for lawful purposes, including constructing, furnishing, equipping, financing, operating, and maintaining cancer research and clinical and related facilities; furnishing, equipping, operating, and maintaining other properties owned or leased by the H. Lee Moffitt Cancer Center and Research Institute; and paying costs incurred in connection with purchasing, financing, operating, and maintaining such equipment, facilities, and properties. In fiscal years 2004-2005 and thereafter, the appropriation to the H. Lee Moffitt Cancer Center and Research Institute authorized by this paragraph ~~subparagraph~~ shall not be less than the amount that would have been paid to the H. Lee Moffitt Cancer Center and Research Institute in fiscal year 2001-2002, had this paragraph ~~subparagraph~~ been in effect.

Section 21. Effective January 1, 2018, paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, are amended, and paragraph (e) is added to that subsection, to read:

212.031 Tax on rental or license fee for use of real property.—

(1)

(c) For the exercise of such privilege, a tax is levied at the rate of 5.8 ~~in an amount equal to 6~~ percent of and on the total rent or license fee charged for such real property by the



945880

person charging or collecting the rental or license fee. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor's or licensor's property as used or operated to attract customers. Payments for intrinsically valuable personal property such as franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. In the case of a contractual arrangement that provides for both payments taxable as total rent or license fee and payments not subject to tax, the tax shall be based on a reasonable allocation of such payments and shall not apply to that portion which is for the nontaxable payments.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5.8 ~~6~~ percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

(e) The tax rate in effect at the time that the tenant or person occupies, uses, or is entitled to occupy or use the real property is the tax rate applicable to the transaction taxable under this section, regardless of when a rent or license fee payment is due or paid. The applicable tax rate may not be avoided by delaying or accelerating rent or license fee payments.

Section 22. Paragraph (c) of subsection (1) of section



945880

212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

(c)1. The provisions of this chapter that authorize a tax-exempt sale for resale do not apply to sales of admissions. However, if a purchaser of an admission subsequently resells the admission for more than the amount paid, the purchaser shall collect tax on the full sales price and may take credit for the amount of tax previously paid. If the purchaser of the admission subsequently resells it for an amount equal to or less than the amount paid, the purchaser may ~~shall~~ not collect any additional tax, nor shall the purchaser be allowed to take credit for the amount of tax previously paid.

2.a. If a purchaser resells an admission to an entity that is exempt from sales and use tax under this chapter for any reason other than sale for resale, the purchaser may seek a refund or credit from the department for the amount of tax it paid on its purchase.

b. For a refund, the purchaser shall provide proof of the exempt entity's qualification for the exemption, as prescribed by rules of the department, and a copy of the ticket, invoice, or other documentation that provides evidence of the tax it paid on the admission with its refund application, whereupon the department shall issue a refund to the purchaser.

c. For a credit, the purchaser shall retain proof of the exempt entity's qualification for the exemption, as prescribed by rules of the department, and a copy of the ticket, invoice, or other documentation that provides evidence of the tax it paid on the admission as long as required under s. 212.13.



945880

d. The department shall look solely to the entity that provided exemption documentation for recovery of tax, if it determines that the entity was not entitled to the exemption.

3.a. If a purchaser of an admission from a related dealer who is a member of the same controlled group of corporations for federal income tax purposes as the purchaser resells such admission to an entity that is exempt from sales and use tax under this chapter for any reason other than sale for resale, the purchaser may seek a refund or credit for the amount of tax it paid on its purchase from the related dealer if it provides that related dealer with proof of the exempt entity's qualification for the exemption, as prescribed by rules of the department.

b. Upon the purchaser's request, a related dealer receiving the exempt entity's documentation shall refund or credit the tax paid by the purchaser. If the related dealer has already remitted such tax to the department, it may then seek a refund or credit of the tax from the department. If the related dealer has not yet remitted such tax to the department, the related dealer may not seek a refund or credit of such tax, but may retain the exemption documentation in lieu of remitting the tax to the department.

c. The department shall look solely to the entity that provided exemption documentation for recovery of tax if it determines that the entity was not entitled to the exemption.

Section 23. Paragraph (i) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable



945880

privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(i)1. At the rate of 6 percent on charges for all:

a. Detective, burglar protection, and other protection services (NAICS National Numbers 561611, 561612, 561613, and 561621). Fingerprint services required under s. 790.06 or s. 790.062 are not subject to the tax. Any law enforcement officer, as defined in s. 943.10, who is performing approved duties as determined by his or her local law enforcement agency in his or her capacity as a law enforcement officer, and who is subject to the direct and immediate command of his or her law enforcement agency, and in the law enforcement officer's uniform as authorized by his or her law enforcement agency, is performing law enforcement and public safety services and is not performing detective, burglar protection, or other protective services, if the law enforcement officer is performing his or her approved duties in a geographical area in which the law enforcement officer has arrest jurisdiction. Such law enforcement and public safety services are not subject to tax irrespective of whether the duty is characterized as "extra duty," "off-duty," or "secondary employment," and irrespective of whether the officer



945880

is paid directly or through the officer's agency by an outside source. The term "law enforcement officer" includes full-time or part-time law enforcement officers, and any auxiliary law enforcement officer, when such auxiliary law enforcement officer is working under the direct supervision of a full-time or part-time law enforcement officer.

b. Nonresidential cleaning, excluding cleaning of the interiors of transportation equipment, and nonresidential building pest control services (NAICS National Numbers 561710 and 561720).

2. As used in this paragraph, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

3. Charges for detective, burglar protection, and other protection security services performed in this state but used outside this state are exempt from taxation. Charges for detective, burglar protection, and other protection security services performed outside this state and used in this state are subject to tax.

4. If a transaction involves both the sale or use of a service taxable under this paragraph and the sale or use of a service or any other item not taxable under this chapter, the consideration paid must be separately identified and stated with respect to the taxable and exempt portions of the transaction or the entire transaction shall be presumed taxable. The burden shall be on the seller of the service or the purchaser of the service, whichever applicable, to overcome this presumption by providing documentary evidence as to which portion of the



945880

transaction is exempt from tax. The department is authorized to adjust the amount of consideration identified as the taxable and exempt portions of the transaction; however, a determination that the taxable and exempt portions are inaccurately stated and that the adjustment is applicable must be supported by substantial competent evidence.

5. Each seller of services subject to sales tax pursuant to this paragraph shall maintain a monthly log showing each transaction for which sales tax was not collected because the services meet the requirements of subparagraph 3. for out-of-state use. The log must identify the purchaser's name, location and mailing address, and federal employer identification number, if a business, or the social security number, if an individual, the service sold, the price of the service, the date of sale, the reason for the exemption, and the sales invoice number. The monthly log shall be maintained pursuant to the same requirements and subject to the same penalties imposed for the keeping of similar records pursuant to this chapter.

Section 24. Effective January 1, 2018, subsections (5) through (7) of section 212.0515, Florida Statutes, are renumbered as subsections (4) through (6), respectively, and current subsections (3), (4), and (7) of that section are amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; penalties.—

(3)~~(a)~~ An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the department and~~7~~ has obtained a separate registration certificate for each county in which such



945880

machines are located, ~~and has affixed a notice to each vending machine selling food or beverages. The notice must be conspicuously displayed on the vending machine when it is being operated in this state and shall contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT ANY MACHINE WITHOUT A NOTICE TO (TOLL-FREE NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD. DO NOT USE THIS NUMBER TO REPORT PROBLEMS WITH THE VENDING MACHINE SUCH AS LOST MONEY OR OUT-OF-DATE PRODUCTS.~~

~~(b) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant a reward of up to 10 percent of previously unpaid taxes recovered as a result of the information provided. A person who receives information concerning a violation of this section from an employee as specified in s. 213.30 is not eligible for a cash reward.~~

~~(4) A penalty of \$250 per machine is imposed on an operator who fails to properly obtain and display the required notice on any machine. Penalties accrue interest as provided for delinquent taxes under this chapter and apply in addition to all other applicable taxes, interest, and penalties.~~

~~(6)(7) The department may adopt rules necessary to administer the provisions of this section and may establish a schedule for phasing in the requirement that existing notices be replaced with revised notices displayed on vending machines.~~

Section 25. Effective January 1, 2018, subsection (7) of section 212.0596, Florida Statutes, is amended to read:



945880

212.0596 Taxation of mail order sales.—

(7) The department may establish by rule procedures for collecting the use tax from unregistered persons who but for their mail order purchases would not be required to remit sales or use tax directly to the department. The procedures may provide for waiver of registration ~~and registration fees~~, provisions for irregular remittance of tax, elimination of the collection allowance, and nonapplication of local option surtaxes.

Section 26. Paragraphs (a) and (p) of subsection (5) of section 212.08, Florida Statutes, are amended, and paragraphs (r) and (s) of subsection (5) and paragraph (d) of subsection (6) are added, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(a) *Items in agricultural use and certain nets.*—There are exempt from the tax imposed by this chapter nets designed and used exclusively by commercial fisheries; disinfectants, fertilizers, insecticides, pesticides, herbicides, fungicides, and weed killers used for application on crops or groves, including commercial nurseries and home vegetable gardens, used in dairy barns or on poultry farms for the purpose of protecting poultry or livestock, or used directly on poultry or livestock; animal health products that are administered to, applied to, or



945880

consumed by livestock or poultry to alleviate pain or cure or prevent sickness, disease, or suffering, including, but not limited to, antiseptics, absorbent cotton, gauze for bandages, lotions, vaccines, vitamins, and worm remedies; aquaculture health products that are used by aquaculture producers, as defined in s. 597.0015, to prevent or treat fungi, bacteria, and parasitic diseases; portable containers or movable receptacles in which portable containers are placed, used for processing farm products; field and garden seeds, including flower seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock; seeds, seedlings, cuttings, and plants used to produce food for human consumption; cloth, plastic, and other similar materials used for shade, mulch, or protection from frost or insects on a farm; stakes used by a farmer to support plants during agricultural production; generators used on poultry farms; and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised; however, such exemption is not allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein. Also exempt are cellophane wrappers, glue for tin and glass (apiarists), mailing cases for honey, shipping cases, window cartons, and baling wire and twine used for baling hay, when used by a farmer to contain, produce, or process an agricultural commodity.

(p) *Community contribution tax credit for donations.*—

1. Authorization.—Persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax



945880

credits against their state sales and use tax liabilities as provided in this paragraph:

a. The credit shall be computed as 50 percent of the person's approved annual community contribution.

b. The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub-subparagraph 3.c. If the annual credit is not fully used through such refund because of insufficient tax payments during the applicable 12-month period, the unused amount may be included in an application for a refund made pursuant to sub-subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3-year period without regard to any time limitation that would otherwise apply under s. 215.26.

c. A person may not receive more than \$200,000 in annual tax credits for all approved community contributions made in any one year.

d. All proposals for the granting of the tax credit require the prior approval of the Department of Economic Opportunity.

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is \$10.5 ~~\$18.4 million in the 2015-2016 fiscal year, \$21.4 million in the 2016-2017 fiscal year, and \$21.4 million each fiscal year in the 2017-2018 fiscal year~~ for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households and \$3.5 million each fiscal year ~~annually~~ for all other projects. As used in this paragraph, the term



945880

"person with special needs" has the same meaning as in s. 420.0004 and the terms "low-income person," "low-income household," "very-low-income person," and "very-low-income household" have the same meanings as in s. 420.9071.

f. A person who is eligible to receive the credit provided in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under one section of the person's choice.

2. Eligibility requirements.—

a. A community contribution by a person must be in the following form:

(I) Cash or other liquid assets;

(II) Real property, including 100 percent ownership of a real property holding company;

(III) Goods or inventory; or

(IV) Other physical resources identified by the Department of Economic Opportunity.

For purposes of this subparagraph, the term "real property holding company" means a Florida entity, such as a Florida limited liability company, that is wholly owned by the person; is the sole owner of real property, as defined in s. 192.001(12), located in the state; is disregarded as an entity for federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii); and at the time of contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term



945880

“project” means activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income households or very-low-income households; designed to provide housing opportunities for persons with special needs; designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job-development opportunities for low-income persons. A project may be the investment necessary to increase access to high-speed broadband capability in a rural community that had an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to a project approved between January 1, 1996, and December 31, 1999, and located in an area which was in an enterprise zone designated pursuant to s. 290.0065 as of May 1, 2015. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income households or very-low-income households on scattered sites or housing opportunities for persons with special needs. With respect to housing, contributions may be used to pay the following eligible special needs, low-income, and very-low-income housing-related activities:

(I) Project development impact and management fees for special needs, low-income, or very-low-income housing projects;

(II) Down payment and closing costs for persons with special needs, low-income persons, and very-low-income persons;

(III) Administrative costs, including housing counseling



945880

and marketing fees, not to exceed 10 percent of the community contribution, directly related to special needs, low-income, or very-low-income projects; and

(IV) Removal of liens recorded against residential property by municipal, county, or special district local governments if satisfaction of the lien is a necessary precedent to the transfer of the property to a low-income person or very-low-income person for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

c. The project must be undertaken by an "eligible sponsor," which includes:

(I) A community action program;

(II) A nonprofit community-based development organization whose mission is the provision of housing for persons with special needs, low-income households, or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;

(III) A neighborhood housing services corporation;

(IV) A local housing authority created under chapter 421;

(V) A community redevelopment agency created under s. 163.356;

(VI) A historic preservation district agency or organization;

(VII) A local workforce development board;

(VIII) A direct-support organization as provided in s. 1009.983;

(IX) An enterprise zone development agency created under s. 290.0056;



945880

(X) A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

(XI) Units of local government;

(XII) Units of state government; or

(XIII) Any other agency that the Department of Economic Opportunity designates by rule.

A contributing person may not have a financial interest in the eligible sponsor.

d. The project must be located in an area which was in an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, or a Front Porch Florida Community, unless the project increases access to high-speed broadband capability in a rural community that had an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low-income households or very-low-income households or housing opportunities for persons with special needs is exempt from the area requirement of this sub-subparagraph.

e.(I) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for less than the annual tax



945880

credits available for those projects, the Department of Economic Opportunity shall grant tax credits for those applications and grant remaining tax credits on a first-come, first-served basis for subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for more than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant the tax credits for those applications as follows:

(A) If tax credit applications submitted for approved projects of an eligible sponsor do not exceed \$200,000 in total, the credits shall be granted in full if the tax credit applications are approved.

(B) If tax credit applications submitted for approved projects of an eligible sponsor exceed \$200,000 in total, the amount of tax credits granted pursuant to sub-sub-sub-paragraph (A) shall be subtracted from the amount of available tax credits, and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

(II) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for less than the annual tax credits available for those projects, the



945880

Department of Economic Opportunity shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for more than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant the tax credits for those applications on a pro rata basis.

3. Application requirements.—

a. An eligible sponsor seeking to participate in this program must submit a proposal to the Department of Economic Opportunity which sets forth the name of the sponsor, a description of the project, and the area in which the project is located, together with such supporting information as is prescribed by rule. The proposal must also contain a resolution from the local governmental unit in which the project is located certifying that the project is consistent with local plans and regulations.

b. A person seeking to participate in this program must submit an application for tax credit to the Department of Economic Opportunity which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify, in writing, the terms of the application and indicate its receipt of the contribution, and such verification must accompany the



945880

939 application for tax credit. The person must submit a separate
940 tax credit application to the Department of Economic Opportunity
941 for each individual contribution that it makes to each
942 individual project.

943 c. A person who has received notification from the
944 Department of Economic Opportunity that a tax credit has been
945 approved must apply to the department to receive the refund.
946 Application must be made on the form prescribed for claiming
947 refunds of sales and use taxes and be accompanied by a copy of
948 the notification. A person may submit only one application for
949 refund to the department within a 12-month period.

950 4. Administration.—

951 a. The Department of Economic Opportunity may adopt rules
952 necessary to administer this paragraph, including rules for the
953 approval or disapproval of proposals by a person.

954 b. The decision of the Department of Economic Opportunity
955 must be in writing, and, if approved, the notification shall
956 state the maximum credit allowable to the person. Upon approval,
957 the Department of Economic Opportunity shall transmit a copy of
958 the decision to the department.

959 c. The Department of Economic Opportunity shall
960 periodically monitor all projects in a manner consistent with
961 available resources to ensure that resources are used in
962 accordance with this paragraph; however, each project must be
963 reviewed at least once every 2 years.

964 d. The Department of Economic Opportunity shall, in
965 consultation with the statewide and regional housing and
966 financial intermediaries, market the availability of the
967 community contribution tax credit program to community-based



945880

organizations.

~~5. Expiration. This paragraph expires June 30, 2018; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3-year carryover period for such credit.~~

(r) Building materials, the rental of tangible personal property, and pest control services used in new construction located in a rural area of opportunity.—

1. As used in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of improvements to real property.

b. "Exempt goods and services" means building materials, the rental of tangible personal property, and pest control services used in new construction.

c. "New construction" means improvements to real property which did not previously exist. The term does not include the reconstruction, renovation, restoration, rehabilitation, modification, alteration, or expansion of buildings already located on the parcel on which the new construction is built.

d. "Pest control" has the same meaning as in s. 482.021.

e. "Real property" has the same meaning as provided in s. 192.001, but does not include a condominium parcel or condominium property as defined in s. 718.103.

f. "Substantially completed" has the same meaning as in s. 192.042(1).

2. Building materials, the rental of tangible personal property, and pest control services used in new construction located in a rural area of opportunity, as designated by the Governor pursuant to s. 288.0656, are exempt from the tax



945880

imposed by this chapter if an owner, lessee, or lessor can
demonstrate to the satisfaction of the department that the
requirements of this paragraph have been met. Except as provided
in subparagraph 3., this exemption inures to the owner, lessee,
or lessor at the time the new construction occurs, but only
through a refund of previously paid taxes. To receive a refund
pursuant to this paragraph, the owner, lessee, or lessor of the
new construction must file an application under oath with the
Department of Economic Opportunity. The application must include
all of the following:

- a. The name and address of the person claiming the refund.
- b. An address and assessment roll parcel number of the real
property that was improved by the new construction for which a
refund of previously paid taxes is being sought.
- c. A description of the new construction.
- d. A copy of a valid building permit issued by the county
or municipal building department for the new construction.
- e. A sworn statement, under penalty of perjury, from the
general contractor licensed in this state with whom the
applicant contracted to build the new construction, which
specifies the exempt goods and services, the actual cost of the
exempt goods and services, and the amount of sales tax paid in
this state on the exempt goods and services, and which states
that the improvement to the real property was new construction.
If a general contractor was not used, the applicant shall make
the sworn statement required by this sub-subparagraph. Copies of
the invoices evidencing the actual cost of the exempt goods and
services and the amount of sales tax paid on such goods and
services must be attached to the sworn statement provided by the



945880

general contractor or by the applicant. If copies of such invoices are not attached, the cost of the exempt goods and services is deemed to be an amount equal to 40 percent of the increase in assessed value of the property for ad valorem tax purposes.

f. A certification by the local building code inspector that the new construction is substantially completed and is new construction.

3. The exemption under this paragraph inures to a municipality, county, other governmental unit or agency, or nonprofit community-based organization through a refund of previously paid taxes if the exempt goods and services are paid for from the funds of a community development block grant, the State Housing Initiatives Partnership Program, or a similar grant or loan program. To receive a refund, a municipality, county, other governmental unit or agency, or nonprofit community-based organization must file an application that includes the same information required under subparagraph 2. In addition, the application must include a sworn statement signed by the chief executive officer of the municipality, county, other governmental unit or agency, or nonprofit community-based organization seeking a refund which states that the exempt goods and services for which a refund is sought were funded by a community development block grant, the State Housing Initiatives Partnership Program, or a similar grant or loan program.

4. Within 10 working days after receiving an application, the Department of Economic Opportunity shall review the application to determine whether it contains all of the information required by subparagraph 2. or subparagraph 3., as



945880

appropriate, and meets the criteria set out in this paragraph.
The Department of Economic Opportunity shall certify all
applications that contain the required information and are
eligible to receive a refund. The certification must be in
writing and a copy must be transmitted by the Department of
Economic Opportunity to the executive director of the
department. The applicant is responsible for forwarding a
certified application to the department within the period
specified in subparagraph 5.

5. An application for a refund must be submitted to the
department within 6 months after the new construction is deemed
to be substantially completed by the local building code
inspector or by November 1 after the improved property is first
subject to assessment.

6. Only one exemption through a refund of previously paid
taxes for the new construction may be claimed for any single
parcel of property unless there is a change in ownership, a new
lessor, or a new lessee of the real property. A refund may not
be granted unless the amount to be refunded exceeds \$500. A
refund may not exceed the lesser of 97.5 percent of the Florida
sales or use tax paid on the cost of the exempt goods and
services as determined pursuant to sub-subparagraph 2.e. or
\$10,000. The department shall issue a refund within 30 days
after it formally approves a refund application.

7. The department shall deduct 10 percent of each refund
amount granted under this paragraph from the amount transferred
into the Local Government Half-cent Sales Tax Clearing Trust
Fund pursuant to s. 212.20 for the county area in which the new
construction is located and shall transfer that amount to the



945880

General Revenue Fund.

8. The department may adopt rules governing the manner and format of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

9. This exemption does not apply to improvements for which construction began before July 1, 2017.

(s) Data center property.—

1. As used in this paragraph, the term:

a. "Critical IT load" means that portion of electric power capacity, expressed in terms of megawatts, which is reserved solely for owners or tenants of a data center to operate their computer server equipment. The term does not include any ancillary load for cooling, lighting, common areas, or other equipment.

b. "Cumulative capital investment" means the combined total of all expenses incurred by the owners or tenants of a data center after July 1, 2017, in connection with acquiring, constructing, installing, equipping, or expanding the data center. However, the term does not include any expenses incurred in the acquisition of improved real property operating as a data center at the time of acquisition or within 6 months before the acquisition.

c. "Data center" means a facility that:

(I) Consists of one or more contiguous parcels in this state, along with the buildings, substations and other infrastructure, fixtures, and personal property located on the parcels;

(II) Is used exclusively to house and operate equipment



945880

that receives, stores, aggregates, manages, processes,
transforms, retrieves, researches, or transmits data; or that is
necessary for the proper operation of equipment that receives,
stores, aggregates, manages, processes, transforms, retrieves,
researches, or transmits data;

(III) Has a critical IT load of 15 megawatts or higher, and
a critical IT load of 1 megawatt or higher dedicated to each
individual owner or tenant within the data center; and

(IV) Is constructed on or after July 1, 2017.

d. "Data center property" means property used exclusively
at a data center to construct, outfit, operate, support, power,
cool, dehumidify, secure, or protect a data center and any
contiguous dedicated substations. The term includes, but is not
limited to, construction materials, component parts, machinery,
equipment, computers, servers, installations, redundancies, and
operating or enabling software, including any replacements,
updates and new versions, and upgrades to or for such property,
regardless of whether the property is a fixture or is otherwise
affixed to or incorporated into real property. The term also
includes electricity used exclusively at a data center.

2. Data center property is exempt from the tax imposed by
this chapter, except for the tax imposed by s. 212.031. To be
eligible for the exemption provided by this paragraph, the data
center's owners and tenants must make a cumulative capital
investment of \$150 million or more for the data center and the
data center must have a critical IT load of 15 megawatts or
higher and a critical IT load of 1 megawatt or higher dedicated
to each individual owner or tenant within the data center. Each
of these requirements must be satisfied no later than 5 years



945880

after the commencement of construction of the data center.

3.a. To receive the exemption provided by this paragraph, the person seeking the exemption must apply to the department for a temporary tax exemption certificate. The application must state that a qualifying data center designation is being sought and provide information that the requirements of subparagraph 2. will be met. Upon a tentative determination by the department that the data center will meet the requirements of subparagraph 2., the department must issue the certificate.

b.(I) The certificateholder shall maintain all necessary books and records to support the exemption provided by this paragraph. Upon satisfaction of all requirements of subparagraph 2., the certificateholder must deliver the temporary tax certificate to the department together with documentation sufficient to show the satisfaction of the requirements. Such documentation must include written declarations, pursuant to s. 92.525, from:

(A) A professional engineer, licensed pursuant to chapter 471, certifying that the critical IT load requirement set forth in subparagraph 2. has been satisfied at the data center; and

(B) A Florida certified public accountant, as defined in s. 473.302, certifying that the cumulative capital investment requirement set forth in subparagraph 2. has been satisfied for the data center.

The professional engineer and the Florida certified public accountant may not be professionally related with the data center's owners, tenants, or contractors, except that they may be retained by a data center owner to certify that the



945880

requirements of subparagraph 2. have been met.

(II) If the department determines that the subparagraph 2. requirements have been satisfied, the department must issue a permanent tax exemption certificate.

(III) Notwithstanding s. 212.084(4), the permanent tax exemption certificate remains valid and effective for as long as the data center described in the exemption application continues to operate as a data center as defined in subparagraph 1., with review by the department every 5 years to ensure compliance. As part of the review, the certificateholder shall, within 3 months before the end of any 5-year period, submit a written declaration, pursuant to s. 92.525, certifying that the critical IT load of 15 megawatts or higher and the critical IT load of 1 megawatt or higher dedicated to each individual owner or tenant within the data center required by subparagraph 2. continues to be met. All owners, tenants, contractors, and others purchasing exempt data center property shall maintain all necessary books and records to support the exemption as to those purchases.

(IV) Notwithstanding s. 213.053, the department may share information concerning a temporary or permanent data center exemption certificate among all owners, tenants, contractors, and others purchasing exempt data center property pursuant to such certificate.

c. If, in an audit conducted by the department, it is determined that the certificateholder or any owners, tenants, contractors, or others purchasing, renting, or leasing data center property do not meet the criteria of this paragraph, the amount of taxes exempted at the time of purchase, rental, or lease is immediately due and payable to the department from the



945880

purchaser, renter, or lessee of those particular items, together with the appropriate interest and penalty computed from the date of purchase in the manner prescribed by this chapter.

Notwithstanding s. 95.091(3)(a), any tax due as provided in this sub-subparagraph may be assessed by the department within 6 years after the date the data center property was purchased.

d. Purchasers, lessees, and renters of data center property who qualify for the exemption provided by this paragraph shall obtain from the data center a copy of the tax exemption certificate issued pursuant to sub-subparagraph a. or sub-subparagraph b. Before or at the time of purchase of the item or items eligible for exemption, the purchaser, lessee, or renter shall provide to the seller a copy of the tax exemption certificate and a signed certificate of entitlement. Purchasers, lessees, and renters with self-accrual authority shall maintain all documentation necessary to prove the exempt status of purchases.

e. For any purchase, lease, or rental of property that is exempt pursuant to this paragraph, the possession of a copy of a tax exemption certificate issued pursuant to sub-subparagraph a. or sub-subparagraph b. and a signed certificate of entitlement relieves the seller of the responsibility of collecting the tax on the sale, lease, or rental of such property, and the department must look solely to the purchaser, renter, or lessee for recovery of the tax if it determines that the purchase, rental, or lease was not entitled to the exemption.

4. After June 30, 2022, the department may not issue a temporary tax exemption certificate pursuant to this paragraph.

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—



945880

(d) For purposes of paragraph (a), the phrase "when payment is made directly to the dealer by the governmental entity" includes situations in which an entity under contract with a municipality to maintain and operate a municipally owned golf course pays for a purchase or lease for the operation or maintenance of that golf course using the golf course revenues or other funds provided by the municipality for use by that entity. This paragraph applies to a municipally owned golf course that is:

1. Located in a county with a population of at least 2 million residents.

2. The site upon which youth education programs are delivered on an ongoing basis by a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

Section 27. The provisions of this act relating to s. 212.08(5)(a), Florida Statutes, which exempt certain animal health products and aquaculture health products, and s. 212.08(6)(d), Florida Statutes, which exempt purchases by entities that operate certain municipally owned golf courses, are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax or create a right to a refund or credit of any tax paid before the effective date of this act.

Section 28. Effective January 1, 2018, paragraph (ooo) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the



945880

rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ooo) Products used to absorb menstrual flow.—Products used to absorb menstrual flow are exempt from the tax imposed by this chapter. As used in this paragraph, the term “products used to absorb menstrual flow” means products used to absorb or contain menstrual flow, including, but not limited to, tampons, sanitary napkins, pantiliners, and menstrual cups.

Section 29. Effective January 1, 2018, paragraphs (a) and



945880

(c) of subsection (3) of section 212.18, Florida Statutes, are amended to read:

212.18 Administration of law; registration of dealers; rules.—

(3) (a) A person desiring to engage in or conduct business in this state as a dealer, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are subject to tax under s. 212.03, or to lease, rent, or let or grant licenses in real property, and a person who sells or receives anything of value by way of admissions, must file with the department an application for a certificate of registration for each place of business. The application must include the names of the persons who have interests in such business and their residences, the address of the business, and other data reasonably required by the department. However, owners and operators of vending machines or newspaper rack machines are required to obtain only one certificate of registration for each county in which such machines are located. The department, by rule, may authorize a dealer that uses independent sellers to sell its merchandise to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the independent seller register as a dealer and remit the tax. The department may appoint the county tax collector as the department's agent to accept applications for registrations. The application must be submitted to the department before the person, firm, copartnership, or corporation may engage in such business, ~~and it must be accompanied by a registration fee of \$5. However, a registration~~



945880

~~fee is not required to accompany an application to engage in or
conduct business to make mail order sales. The department may
waive the registration fee for applications submitted through
the department's Internet registration process.~~

(c)1. A person who engages in acts requiring a certificate of registration under this subsection and who fails or refuses to register commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Such acts are subject to injunctive proceedings as provided by law. A person who engages in acts requiring a certificate of registration and who fails or refuses to register is also subject to a \$100 ~~initial~~ registration fee ~~in lieu of the \$5 registration fee required by paragraph (a).~~ However, the department may waive ~~the increase in~~ the registration fee if it finds that the failure to register was due to reasonable cause and not to willful negligence, willful neglect, or fraud.

2.a. A person who willfully fails to register after the department provides notice of the duty to register as a dealer commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. The department shall provide written notice of the duty to register to the person by personal service or by sending notice by registered mail to the person's last known address. The department may provide written notice by both methods described in this sub-subparagraph.

Section 30. Paragraphs (d) and (t) of subsection (1) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not



945880

otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(d) "Community Contribution" means the grant by a business firm of any of the following items:

1. Cash or other liquid assets.

2. Real property, which for purposes of this subparagraph includes 100 percent ownership of a real property holding company. The term "real property holding company" means a Florida entity, such as a Florida limited liability company, that:

a. Is wholly owned by the business firm.

b. Is the sole owner of real property, as defined in s. 192.001(12), located in the state.

c. Is disregarded as an entity for federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).

d. At the time of contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

3. Goods or inventory.

4. Other physical resources as identified by the department.

~~This paragraph expires June 30, 2018.~~

(t) "Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very-low-income households as defined in s. 420.9071(19) and (28); designed to provide housing



945880

opportunities for persons with special needs as defined in s. 420.0004; designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job-development opportunities for low-income persons. A project may be the investment necessary to increase access to high-speed broadband capability in a rural community that had an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an area that was in an enterprise zone designated pursuant to s. 290.0065 as of May 1, 2015. This paragraph does not preclude projects that propose to construct or rehabilitate low-income or very-low-income housing on scattered sites or housing opportunities for persons with special needs as defined in s. 420.0004. With respect to housing, contributions may be used to pay the following eligible project-related activities:

1. Project development, impact, and management fees for special needs, low-income, or very-low-income housing projects;
2. Down payment and closing costs for eligible persons, as defined in s. 420.9071(19) and (28);
3. Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to special needs, low-income, or very-low-income projects; and
4. Removal of liens recorded against residential property by municipal, county, or special-district local governments when



945880

satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

~~This paragraph expires June 30, 2018.~~

Section 31. Paragraph (c) of subsection (1) and subsection (5) of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.—

(1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(c) The total amount of tax credit which may be granted for all programs approved under this section, s. 212.08(5)(p), and s. 624.5105 is \$10.5 ~~\$18.4 million in the 2015-2016 fiscal year, \$21.4 million in the 2016-2017 fiscal year, and \$21.4 million each fiscal year in the 2017-2018 fiscal year~~ for projects that provide housing opportunities for persons with special needs as defined in s. 420.0004 and homeownership opportunities for low-income households or very-low-income households as defined in s. 420.9071 and \$3.5 million each fiscal year ~~annually~~ for all other projects.

~~(5) EXPIRATION. The provisions of this section, except paragraph (1)(c), expire June 30, 2018.~~

Section 32. Paragraph (f) of subsection (2) of section 220.1845, Florida Statutes, is amended to read:

220.1845 Contaminated site rehabilitation tax credit.—

(2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—



945880

(f) The total amount of the tax credits which may be granted under this section is ~~\$21.6 million in the 2015-2016 fiscal year and \$10~~ \$5 million each fiscal year annually thereafter.

Section 33. Paragraph (e) of subsection (2) of section 220.196, Florida Statutes, is amended to read:

220.196 Research and development tax credit.—

(2) TAX CREDIT.—

(e) The combined total amount of tax credits which may be granted to all business enterprises under this section during any calendar year is \$9 million, except that the total amount that may be awarded in the 2018 ~~2016~~ calendar year is \$18 ~~\$23~~ million. Applications may be filed with the department on or after March 20 and before March 27 for qualified research expenses incurred within the preceding calendar year. If the total credits for all applicants exceed the maximum amount allowed under this paragraph, the credits shall be allocated on a prorated basis.

Section 34. Paragraph (d) of subsection (2) of section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(2)

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 ~~and shall be 5 months for taxpayers with a taxable year ending December 31.~~

Section 35. The amendment made by this act to s. 220.222, Florida Statutes, applies to taxable years beginning on or after January 1, 2016.



945880

Section 36. Subsection (13) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or official license plate: \$4 flat, of which \$1 shall be deposited into the General Revenue Fund, except that the registration or renewal of a registration of a marine boat trailer exempt under s. 320.102 is not subject to any license tax.

Section 37. Paragraphs (i) and (j) of subsection (1) of section 320.10, Florida Statutes, are amended, and paragraph (k) is added to that subsection, to read:

320.10 Exemptions.—

(1) The provisions of s. 320.08 do not apply to:

(i) Any vehicle used by any of the various search and rescue units of the several counties for exclusive use as a search and rescue vehicle; ~~or~~

(j) Any motor vehicle used by a community transportation coordinator or a transportation operator as defined in part I of chapter 427, and which is used exclusively to transport transportation disadvantaged persons; or

(k) Any marine boat trailer exempt under s. 320.102.

Section 38. Section 320.102, Florida Statutes, is created to read:



945880

320.102 Marine boat trailers owned by nonprofit organizations; exemptions.—The registration or renewal of a registration of any marine boat trailer owned and operated by a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and which is used exclusively in carrying out its customary nonprofit activities is exempt from paying the fees, taxes, surcharges, and charges in ss. 320.03(5), (6), and (9), 320.031(2), 320.04(1), 320.06(1)(b) and (3)(b), 320.0801, 320.0802, 320.0804, and 320.08046.

Section 39. Effective upon this act becoming a law, subsection (5) of section 336.021, Florida Statutes, is amended to read:

336.021 County transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.—

(5) All impositions of the tax shall be levied before October 1 of each year to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate provided the tax is levied before July 1 and is ~~to be~~ effective September 1 of the year of expiration. All impositions shall be required to end on December 31 of a year. A decision to rescind the tax shall not take effect on any date other than December 31 and shall require a minimum of 60 days' notice to the department of such decision.

Section 40. Effective upon this act becoming a law, paragraphs (a) and (b) of subsection (1) and paragraph (a) of subsection (5) of section 336.025, Florida Statutes, are amended to read:



945880

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(1)(a) In addition to other taxes allowed by law, there may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option fuel tax upon every gallon of motor fuel and diesel fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.

1. All impositions and rate changes of the tax shall be levied before October 1 to be effective January 1 of the following year for a period not to exceed 30 years, and the applicable method of distribution shall be established pursuant to subsection (3) or subsection (4). However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate provided the tax is levied before July 1 and is effective September 1 of the year of expiration. Upon expiration, the tax may be relevied provided that a redetermination of the method of distribution is made as provided in this section.

2. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures.

3. Any tax levied pursuant to this paragraph may be extended on a majority vote of the governing body of the county. A redetermination of the method of distribution shall be established pursuant to subsection (3) or subsection (4), if, after July 1, 1986, the tax is extended or the tax rate changed, for the period of extension or for the additional tax.

(b) In addition to other taxes allowed by law, there may be



945880

levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

1. All impositions and rate changes of the tax shall be levied before October 1, to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate provided the tax is levied before July 1 and is effective September 1 of the year of expiration.

2. The county may, prior to levy of the tax, establish by interlocal agreement with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county. If no interlocal agreement is adopted before the effective date of the tax, tax revenues shall be distributed pursuant to the provisions of subsection (4). If no interlocal agreement exists, a new interlocal agreement may be established prior to June 1 of any year pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial levy of the tax or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this paragraph, and the amounts



945880

distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

3. County and municipal governments shall use moneys received pursuant to this paragraph for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

(5) (a) By October 1 of each year, the county shall notify the Department of Revenue of the rate of the taxes levied pursuant to paragraphs (1) (a) and (b), and of its decision to rescind or change the rate of a tax, if applicable, and shall provide the department with a certified copy of the interlocal agreement established under subparagraph (1) (b)2. or subparagraph (3) (a)1. with distribution proportions established by such agreement or pursuant to subsection (4), if applicable. A decision to rescind a tax may not take effect on any date



945880

other than December 31, regardless of when the tax was originally imposed, and requires a minimum of 60 days' notice to the Department of Revenue of such decision.

Section 41. Subsection (4) of section 376.30781, Florida Statutes, is amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(4) The Department of Environmental Protection is responsible for allocating the tax credits provided for in s. 220.1845, which may not exceed a total of ~~\$21.6 million in tax credits in the 2015-2016 fiscal year and \$10~~ \$5 million in tax credits each fiscal year annually thereafter.

Section 42. Effective January 1, 2018, subsection (2) of section 376.70, Florida Statutes, is amended to read:

376.70 Tax on gross receipts of drycleaning facilities.—

(2) Each drycleaning facility or dry drop-off facility imposing a charge for the drycleaning or laundering of clothing or other fabrics is required to register with the Department of Revenue and become licensed for the purposes of this section. The owner or operator of the facility shall register the facility with the Department of Revenue. Drycleaning facilities or dry drop-off facilities operating at more than one location are only required to have a single registration. ~~The fee for registration is \$30. The owner or operator of the facility shall pay the registration fee to the Department of Revenue. The department may waive the registration fee for applications submitted through the department's Internet registration~~



945880

~~process.~~

Section 43. Effective upon this act becoming a law, subsection (2) of section 376.75, Florida Statutes, is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(2) Any person producing in, importing into, or causing to be imported into, or selling in, this state perchloroethylene must register with the Department of Revenue and become licensed for the purposes of remitting the tax pursuant to, or providing information required by, this section. Such person must register as a seller of perchloroethylene, a user of perchloroethylene in drycleaning facilities, or a user of perchloroethylene for purposes other than drycleaning. Persons operating at more than one location are only required to have a single registration. ~~The fee for registration is \$30.~~ Failure to timely register is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 44. Effective upon this act becoming a law, subsection (1) of section 443.131, Florida Statutes, is amended to read:

443.131 Contributions.—

(1) PAYMENT OF CONTRIBUTIONS.—Contributions accrue and are payable by each employer for each calendar quarter he or she is subject to this chapter for wages paid during each calendar quarter for employment. Contributions are due and payable by each employer to the tax collection service provider, in accordance with the rules adopted by the Department of Economic Opportunity or the state agency providing tax collection



945880

services. This subsection does not prohibit the tax collection service provider from allowing, at the request of the employer, employers of employees performing domestic services, as defined in s. 443.1216(6), to pay contributions or report wages at intervals other than quarterly when the nonquarterly payment or reporting assists the service provider and when nonquarterly payment and reporting is authorized under federal law. Employers of employees performing domestic services may report wages and pay contributions annually, with a due date of no later than January 31, unless that day is a Saturday, Sunday, or holiday, in which event the due date is the next day that is not a Saturday, Sunday, or holiday. For purposes of this subsection, the term "holiday" means a day designated under s. 110.117(1) and (2) or any other day when the offices of the United States Postal Service are closed ~~January 1 and a delinquency date of February 1.~~ To qualify for this election, the employer must employ only employees performing domestic services, be eligible for a variation from the standard rate computed under subsection (3), apply to this program no later than December 1 of the preceding calendar year, and agree to provide the department or its tax collection service provider with any special reports that are requested, including copies of all federal employment tax forms. An employer who fails to timely furnish any wage information required by the department or its tax collection service provider loses the privilege to participate in this program, effective the calendar quarter immediately after the calendar quarter the failure occurred. The employer may reapply for annual reporting when a complete calendar year elapses after the employer's disqualification if the employer timely furnished



945880

any requested wage information during the period in which annual reporting was denied. An employer may not deduct contributions, interests, penalties, fines, or fees required under this chapter from any part of the wages of his or her employees. A fractional part of a cent less than one-half cent shall be disregarded from the payment of contributions, but a fractional part of at least one-half cent shall be increased to 1 cent.

Section 45. Effective upon this act becoming a law, paragraph (d) of subsection (1) of section 443.141, Florida Statutes, is amended to read:

443.141 Collection of contributions and reimbursements.—

(1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT, ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

(d) *Payments for contributions.*—For an annual administrative fee not to exceed \$5, a contributing employer may pay its quarterly contributions due for wages paid in the first three quarters of each year in equal installments if those contributions are paid as follows:

1. For contributions due for wages paid in the first quarter of each year, one-fourth of the contributions due must be paid on or before April 30, one-fourth must be paid on or before July 31, one-fourth must be paid on or before October 31, and one-fourth must be paid on or before December 31.

2. In addition to the payments specified in subparagraph 1., for contributions due for wages paid in the second quarter of each year, one-third of the contributions due must be paid on or before July 31, one-third must be paid on or before October 31, and one-third must be paid on or before December 31.

3. In addition to the payments specified in subparagraphs



945880

1. and 2., for contributions due for wages paid in the third quarter of each year, one-half of the contributions due must be paid on or before October 31, and one-half must be paid on or before December 31.

4. If any of the due dates in this paragraph falls on a Saturday, Sunday, or holiday, the due date is the next day that is not a Saturday, Sunday, or holiday. For purposes of this paragraph, the term "holiday" means a day designated under s. 110.117(1) and (2) or any other day when the offices of the United States Postal Service are closed.

5.4. The annual administrative fee assessed for electing to pay under the installment method shall be collected at the time the employer makes the first installment payment each year. The fee shall be segregated from the payment and deposited into the Operating Trust Fund of the Department of Revenue.

6.5. Interest does not accrue on any contribution that becomes due for wages paid in the first three quarters of each year if the employer pays the contribution in accordance with subparagraphs 1.-5. ~~subparagraphs 1.-4.~~ Interest and fees continue to accrue on prior delinquent contributions and commence accruing on all contributions due for wages paid in the first three quarters of each year which are not paid in accordance with subparagraphs 1.-4. ~~subparagraphs 1.-3.~~ Penalties may be assessed in accordance with this chapter. The contributions due for wages paid in the fourth quarter are not affected by this paragraph and are due and payable in accordance with this chapter.

Section 46. Effective upon this act becoming a law, section 443.163, Florida Statutes, is amended to read:



945880

443.163 Electronic reporting and remitting of contributions and reimbursements.—

(1) An employer may file any report and remit any contributions or reimbursements required under this chapter by electronic means. The Department of Economic Opportunity or the state agency providing reemployment assistance tax collection services shall adopt rules prescribing the format and instructions necessary for electronically filing reports and remitting contributions and reimbursements to ensure a full collection of contributions and reimbursements due. The acceptable method of transfer, the method, form, and content of the electronic means, and the method, if any, by which the employer will be provided with an acknowledgment shall be prescribed by the department or its tax collection service provider. However, any employer who employed 10 or more employees in any quarter during the preceding state fiscal year must file the Employers Quarterly Reports ~~(UCT-6)~~ for the current calendar year and remit the contributions and reimbursements due by electronic means approved by the tax collection service provider. A person who prepared and reported for 100 or more employers in any quarter during the preceding state fiscal year must file the Employers Quarterly Reports ~~(UCT-6)~~ for each calendar quarter in the current calendar year, beginning with reports due for the second calendar quarter of 2003, by electronic means approved by the tax collection service provider.

(2) (a) An employer who is required by law to file an Employers Quarterly Report ~~(UCT-6)~~ by approved electronic means, but who files the report by a means other than approved



945880

electronic means, is liable for a penalty of \$50 for that report and \$1 for each employee. This penalty is in addition to any other penalty provided by this chapter. However, the penalty does not apply if the tax collection service provider waives the electronic filing requirement in advance. An employer who fails to remit contributions or reimbursements by approved electronic means as required by law is liable for a penalty of \$50 for each remittance submitted by a means other than approved electronic means. This penalty is in addition to any other penalty provided by this chapter.

(b) A person who prepared and reported for 100 or more employers in any quarter during the preceding state fiscal year, but who fails to file an Employers Quarterly Report ~~(UCT-6)~~ for each calendar quarter in the current calendar year by approved electronic means, is liable for a penalty of \$50 for that report and \$1 for each employee. This penalty is in addition to any other penalty provided by this chapter. However, the penalty does not apply if the tax collection service provider waives the electronic filing requirement in advance.

(3) The tax collection service provider may waive the requirement to file an Employers Quarterly Report ~~(UCT-6)~~ by electronic means for employers that are unable to comply despite good faith efforts or due to circumstances beyond the employer's reasonable control.

(a) As prescribed by the Department of Economic Opportunity or its tax collection service provider, grounds for approving the waiver include, but are not limited to, circumstances in which the employer does not:

1. Currently file information or data electronically with



945880

any business or government agency; or

2. Have a compatible computer that meets or exceeds the standards prescribed by the department or its tax collection service provider.

(b) The tax collection service provider shall accept other reasons for requesting a waiver from the requirement to submit the Employers Quarterly Report ~~(UCT-6)~~ by electronic means, including, but not limited to:

1. That the employer needs additional time to program his or her computer;

2. That complying with this requirement causes the employer financial hardship; or

3. That complying with this requirement conflicts with the employer's business procedures.

(c) The department or the state agency providing reemployment assistance tax collection services may establish by rule the length of time a waiver is valid and may determine whether subsequent waivers will be authorized, based on this subsection.

(4) As used in this section, the term "electronic means" includes, but is not limited to, electronic data interchange; electronic funds transfer; and use of the Internet, telephone, or other technology specified by the Department of Economic Opportunity or its tax collection service provider.

(5) The tax collection service provider may waive the penalty imposed by this section if a written request for a waiver is filed which establishes that imposition would be inequitable. Examples of inequity include, but are not limited to, situations where the failure to electronically file was



945880

caused by one of the following factors:

(a) Death or serious illness of the person responsible for the preparation and filing of the report.

(b) Destruction of the business records by fire or other casualty.

(c) Unscheduled and unavoidable computer downtime.

Section 47. Section 563.01, Florida Statutes, is amended to read:

563.01 Definitions ~~Definition.~~— The term: ~~terms~~

(1) "Beer" means a brewed beverage that meets the federal definition of beer in 27 C.F.R. s. 25.11 and contains less than 6 percent alcohol by volume. ~~and~~

(2) "Malt beverage" means any ~~mean all~~ brewed beverage ~~beverages~~ containing malt.

The terms "beer" and "malt beverage" have the same meaning when either term is used in the Beverage Law. The terms do not include alcoholic beverages that require a certificate of label approval by the Federal Government as wine or as distilled spirits.

Section 48. Paragraph (c) of subsection (1) and subsection (6) of section 624.5105, Florida Statutes, are amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.—

(1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

(c) The total amount of tax credit which may be granted for all programs approved under this section and ss. 212.08(5)(p) and 220.183 is \$10.5 ~~\$18.4 million in the 2015-2016 fiscal year,~~



945880

~~\$21.4 million in the 2016-2017 fiscal year, and \$21.4 million~~
~~each fiscal year in the 2017-2018 fiscal year~~ for projects that
provide housing opportunities for persons with special needs as
defined in s. 420.0004 or homeownership opportunities for low-
income or very-low-income households as defined in s. 420.9071
and \$3.5 million each fiscal year ~~annually~~ for all other
projects.

~~(6) EXPIRATION. The provisions of this section, except~~
~~paragraph (1)(c), expire June 30, 2018.~~

Section 49. Effective upon this act becoming a law,
paragraph (e) of subsection (3) of section 733.2121, Florida
Statutes, is amended to read:

733.2121 Notice to creditors; filing of claims.—

(3)

(e) The personal representative may serve a notice to
creditors on the Department of Revenue only when the Department
of Revenue is determined to be a creditor under paragraph (a) ~~If~~
~~the Department of Revenue has not previously been served with a~~
~~copy of the notice to creditors, then service of the inventory~~
~~on the Department of Revenue shall be the equivalent of service~~
~~of a copy of the notice to creditors.~~

Section 50. Paragraph (c) of subsection (5) of section
790.06, Florida Statutes, is amended to read:

790.06 License to carry concealed weapon or firearm.—

(5) The applicant shall submit to the Department of
Agriculture and Consumer Services or an approved tax collector
pursuant to s. 790.0625:

(c) A full set of fingerprints of the applicant
administered by a law enforcement agency or the Division of



945880

Licensing of the Department of Agriculture and Consumer Services or an approved tax collector pursuant to s. 790.0625 together with any personal identifying information required by federal law to process fingerprints. Charges for fingerprint services under this paragraph are not subject to the sales tax on fingerprint services imposed in s. 212.05(1)(i).

Section 51. Subsection (2) of section 790.062, Florida Statutes, is amended to read:

790.062 Members and veterans of United States Armed Forces; exceptions from licensure provisions.—

(2) The Department of Agriculture and Consumer Services shall accept fingerprints of an applicant under this section administered by any law enforcement agency, military provost, or other military unit charged with law enforcement duties or as otherwise provided for in s. 790.06(5)(c). Charges for fingerprint services under this subsection are not subject to the sales tax on fingerprint services imposed in s. 212.05(1)(i).

Section 52. Clothing, school supplies, personal computers, and personal computer-related accessories; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 4, 2017, through 11:59 p.m. on August 6, 2017, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of \$60 or less per item. As used in this paragraph, the term "clothing" means:



945880

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of \$15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 4, 2017, through 11:59 p.m. on August 6, 2017, on the first \$750 of the sales price of personal computers or personal computer-related accessories purchased for noncommercial home or personal use. For purposes of this subsection, the term:

(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, and tower computers. The term does not include cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.

(b) "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in association with a personal computer base unit. The term does not include furniture or systems, devices, software, or



945880

peripherals that are designed or intended primarily for recreational use.

(c) "Monitors" does not include devices that include a television tuner.

(3) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(4) The tax exemptions provided in this section apply at the option of a dealer if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, the dealer must notify the Department of Revenue in writing, by August 1, 2017, of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(5) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54(4), Florida Statutes, to administer this section.

(6) For the 2017-2018 fiscal year, the sum of \$241,200 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 53. Section 1 of chapter 2007-339, section 13 of chapter 2008-173, section 6 of chapter 2009-131, subsection (2) of section 8 and section 24 of chapter 2010-138, section 6 of



945880

chapter 2010-149, section 7 of chapter 2010-166, section 35 of chapter 2011-76, section 4 of chapter 2011-93, section 3 of chapter 2011-229, section 25 of chapter 2012-32, and section 3 of chapter 2013-46, Laws of Florida, are repealed.

Section 54. Notwithstanding the application deadline stated in s. 196.011(1)(a), Florida Statutes, an educational institution that leased a facility that was exempt from ad valorem tax under s. 196.1983, Florida Statutes, for the 2015 ad valorem tax roll and purchased the facility may apply for the exemption under s. 196.198, Florida Statutes, for the 2016 ad valorem tax roll by filing an application on or before August 1, 2017.

Section 55. For the 2017-2018 fiscal year, the sum of \$149,818 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue to implement the amendments made by this act to ss. 212.08(7) and 212.031, Florida Statutes.

Section 56. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2017.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to taxation; amending s. 125.0104,
F.S.; authorizing counties imposing the tourist



945880

2012 development tax to use those tax revenues for
2013 auditoriums that are publicly owned but operated by
2014 specified organizations under certain circumstances;
2015 amending s. 192.001, F.S.; revising the definition of
2016 the term "inventory" to include specified construction
2017 and agricultural equipment under certain
2018 circumstances; amending s. 196.012, F.S.; revising the
2019 definition of the terms "nursing home" or "home for
2020 special services"; providing applicability; amending
2021 s. 196.1975, F.S.; requiring certain corporations that
2022 provide homes for the aged to file specified
2023 affidavits with their annual tax exemption
2024 applications; providing an exemption; authorizing the
2025 property appraiser to request specified additional
2026 documentation under certain conditions; amending s.
2027 196.1978, F.S.; discounting property taxes for
2028 properties that offer affordable housing to specified
2029 low-income persons and families; providing
2030 requirements for such discount; amending s. 196.1983,
2031 F.S.; revising requirements for a landlord's affidavit
2032 relating to the charter school exemption from ad
2033 valorem taxes; deleting a provision specifying the
2034 method of receiving the benefit of the exemption;
2035 providing retroactive operation; amending s. 198.30,
2036 F.S.; deleting a requirement for circuit judges to
2037 monthly report certain information to the Department
2038 of Revenue relating to the estates of certain
2039 decedents; amending s. 206.02, F.S.; deleting
2040 requirements to pay license taxes for a terminal



945880

2041 supplier license, an importer, exporter, or blender of
2042 motor fuels license, or a wholesaler of motor fuel
2043 license; conforming provisions to changes made by the
2044 act; amending s. 206.021, F.S.; deleting a requirement
2045 to pay license taxes for a carrier license; conforming
2046 a provision to changes made by the act; amending s.
2047 206.022, F.S.; deleting a requirement to pay license
2048 taxes for a terminal operator license; amending s.
2049 206.03, F.S.; conforming a provision to changes made
2050 by the act; amending s. 206.045, F.S.; conforming a
2051 provision to changes made by the act; providing for
2052 future repeal of ss. 206.405 and 206.406, F.S.,
2053 relating to receipt for payment of license taxes and
2054 disposition of license tax funds, respectively;
2055 amending s. 206.41, F.S.; deleting a requirement for
2056 the department to deduct a specified fee from certain
2057 motor fuel refund claims; amending s. 206.9865, F.S.;
2058 deleting a requirement to pay application fees for an
2059 aviation fuel tax license for commercial air carriers;
2060 amending s. 206.9943, F.S.; deleting a requirement to
2061 pay license fees for a pollutant tax license; amending
2062 s. 206.9952, F.S.; deleting a requirement to pay
2063 license fees for a natural gas fuel retailer license;
2064 amending s. 206.998, F.S.; conforming cross-
2065 references; amending 210.20, F.S.; extending a date by
2066 which the Division of Alcoholic Beverages and Tobacco
2067 of the Department of Business and Professional
2068 Regulation must monthly certify to the Chief Financial
2069 Officer specified amounts relating to the cigarette



945880

2070 tax and make specified payments and distributions;
2071 amending s. 212.031, F.S.; reducing the tax levied on
2072 the renting, leasing, letting, and granting of a
2073 license for the use of real property; providing
2074 applicability and construction; amending s. 212.04,
2075 F.S.; authorizing refunds or credits from the sales
2076 and use tax for the resale of admissions to certain
2077 exempt entities under certain circumstances; providing
2078 requirements and procedures relating to such refunds
2079 and credits; amending s. 212.05, F.S.; providing that
2080 fingerprint services required for a license to carry a
2081 concealed weapon or firearm are not subject to the
2082 sales and use tax on detective and protection
2083 services; amending s. 212.0515, F.S.; deleting a
2084 requirement for vending machine operators to post a
2085 specified notice on vending machines; conforming
2086 provisions to changes made by the act; amending s.
2087 212.0596, F.S.; deleting an authorization for
2088 procedures that waive registration fees in relation to
2089 the use tax on mail order purchases by certain
2090 persons; amending s. 212.08, F.S.; adding items in
2091 agricultural use to a list of such items exempt from
2092 the sales and use tax; providing retroactive
2093 applicability; revising the total amount of certain
2094 community contribution tax credits for donations which
2095 may be granted each fiscal year; deleting a provision
2096 providing for the expiration of the credit; providing
2097 a sales and use tax exemption for building materials,
2098 the rental of tangible personal property, and pest



945880

2099 control services used in new construction located in a
2100 rural area of opportunity; defining terms; specifying
2101 requirements, limitations, procedures for the
2102 exemption; authorizing the department to adopt rules;
2103 providing applicability; providing a sales and use tax
2104 exemption for data center property; defining terms;
2105 specifying requirements, limitations, and procedures
2106 for the exemption; specifying criteria under which
2107 certain entities that operate a municipally owned golf
2108 course may receive a tax exemption when making
2109 payments to a dealer; providing retroactive
2110 applicability; providing a sales and use tax exemption
2111 for products used to absorb menstrual flow; amending
2112 s. 212.18, F.S.; deleting a requirement for
2113 certificates of registration fees for certain dealers
2114 in relation to the sales and use tax; conforming
2115 provisions to changes made by the act; amending s.
2116 220.03, F.S.; deleting the expiration date for the
2117 definitions of the terms "community contribution" and
2118 "project" in the income tax code; amending s. 220.183,
2119 F.S.; specifying the total amount of community
2120 contribution tax credits that may be granted each
2121 fiscal year for contributions made to eligible
2122 sponsors of specified projects; deleting the
2123 expiration date of specified provisions relating to
2124 community contribution tax credits; amending s.
2125 220.1845, F.S.; specifying the total amount of tax
2126 credits which may be granted for contaminated site
2127 rehabilitation each fiscal year; amending s. 220.196,



945880

2128 F.S.; specifying the amount of research and
2129 development tax credits that may be granted to
2130 business enterprises in a specified year; amending s.
2131 220.222, F.S.; deleting a provision that limits the
2132 time period for filing certain corporate income tax
2133 filings; providing retroactive applicability; amending
2134 ss. 320.08 and 320.10, F.S.; exempting certain marine
2135 boat trailers from license taxes; amending s. 320.102,
2136 F.S.; exempting certain marine boat trailers from
2137 specified fees, charges, taxes, and surcharges;
2138 amending s. 336.021, F.S.; specifying a condition for
2139 the reimposition of ninth-cent fuel taxes on motor and
2140 diesel fuels by a county; amending s. 336.025, F.S.;
2141 specifying a condition for the reimposition of local
2142 option fuel taxes on motor and diesel fuels by a
2143 county; providing construction relating to
2144 requirements on a decision to rescind a tax; amending
2145 s. 376.30781, F.S.; revising the total amount of tax
2146 credits that may be annually allocated by the
2147 Department of Environmental Protection for the
2148 rehabilitation of drycleaning-solvent-contaminated
2149 sites and brownfield sites; amending s. 376.70, F.S.;
2150 deleting provisions relating to drycleaning facility
2151 registration fees; amending s. 376.75, F.S.; deleting
2152 a requirement to pay registration fees for certain
2153 persons producing, importing, selling, or using
2154 perchloroethylene; amending s. 443.131, F.S.; revising
2155 a deadline for employers of employees performing
2156 domestic services to annually report wages and pay



945880

2157 certain contributions under the Reemployment
2158 Assistance Program Law; defining the term "holiday";
2159 amending s. 443.141, F.S.; specifying a due date of
2160 certain employer contributions if such date falls on a
2161 weekend or holiday; defining the term "holiday";
2162 conforming cross-references; amending s. 443.163,
2163 F.S.; deleting a form name; authorizing reemployment
2164 assistance tax collection service providers to waive a
2165 certain penalty under certain circumstances; amending
2166 s. 563.01, F.S.; revising the definitions of the terms
2167 "beer" and "malt beverage" for purposes of the
2168 Beverage Law; amending s. 624.5105, F.S.; specifying
2169 the total amount of community contribution tax credits
2170 that may be granted each fiscal year; deleting the
2171 expiration date of specified provisions relating to
2172 community contribution tax credits; amending s.
2173 733.2121, F.S.; providing that a personal
2174 representative may serve a notice to creditors on the
2175 department only under certain circumstances; deleting
2176 a provision providing construction; amending ss.
2177 790.06 and 790.062, F.S.; providing that fingerprint
2178 services required for a license to carry a concealed
2179 weapon or firearm are not subject to the sales tax on
2180 fingerprint services; providing sales tax exemptions
2181 for the retail sale of certain clothing, school
2182 supplies, personal computers, and personal computer-
2183 related accessories; providing exceptions; authorizing
2184 certain dealers to opt out of participating in such
2185 tax exemption; providing requirements for such



945880

2186 dealers; authorizing the department to adopt emergency
2187 rules; providing an appropriation; repealing s. 1 of
2188 ch. 2007-339, s. 13 of ch. 2008-173, s. 6 of ch. 2009-
2189 131, ss. 8(2) and 24 of ch. 2010-138, s. 6 of ch.
2190 2010-149, s. 7 of ch. 2010-166, s. 35 of ch. 2011-76,
2191 s. 4 of ch. 2011-93, s. 3 of ch. 2011-229, s. 25 of
2192 ch. 2012-32, and s. 3 of ch. 2013-46, Laws of Florida,
2193 relating to obsolete emergency rulemaking authority of
2194 the department; authorizing specified educational
2195 institutions that leased and purchased facilities
2196 exempt from ad valorem tax under the charter school
2197 exemption to apply by a specified date for the
2198 educational property exemption for the 2016 ad valorem
2199 tax roll; providing an appropriation; providing
2200 effective dates.



HB 7109, Engrossed 1

2017

1 A bill to be entitled
 2 An act relating to taxation; amending s. 196.1975,
 3 F.S.; requiring certain corporations that provide
 4 homes for the aged to file specified affidavits with
 5 their annual tax exemption applications; providing an
 6 exemption; authorizing the property appraiser to
 7 request specified additional documentation under
 8 certain conditions; amending s. 196.1978, F.S.;
 9 discounting property taxes for properties that offer
 10 affordable housing to specified low-income persons and
 11 families; providing requirements for such discount;
 12 amending s. 198.30, F.S.; removing a requirement for
 13 circuit judges to report certain information regarding
 14 a decedent's estate to the Department of Revenue;
 15 amending s. 192.001, F.S.; revising the definition of
 16 the term "inventory" to include specified construction
 17 and agricultural equipment under certain
 18 circumstances; amending s. 206.02, F.S.; deleting
 19 license application and renewal taxes for terminal
 20 supplier and motor fuel importer, exporter, blender,
 21 and wholesaler licenses; amending s. 206.021, F.S.;
 22 deleting license application and renewal taxes for
 23 private or common carrier of motor fuel licenses;
 24 amending s. 206.022, F.S.; deleting license
 25 application and renewal taxes for terminal operator

Page 1 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

26 licenses; amending ss. 206.03 and 206.045, F.S.;
 27 conforming provisions to changes made by this act;
 28 repealing ss. 206.405 and 206.406, F.S., relating to
 29 the receipt and deposit of funds received from the
 30 payment of certain motor fuel license taxes; amending
 31 s. 206.41, F.S.; deleting the fee deducted from
 32 quarterly motor fuel refund claims to qualified
 33 taxpayers; amending ss. 206.9943, 206.9952, and
 34 206.9865, F.S.; deleting application and renewal fees
 35 for pollutant tax, natural gas fuel retailer, and
 36 aviation fuel tax licenses; amending 210.20, F.S.;
 37 deleting specified cigarette taxes from being
 38 deposited into a specified trust fund for biomedical
 39 research purposes; amending s. 212.031, F.S.; reducing
 40 the tax levied on the renting, leasing, letting, and
 41 granting of a license for the use of real property;
 42 providing applicability; amending s. 212.04, F.S.;
 43 authorizing refunds or credits of taxes paid on
 44 admissions subsequently resold to exempt entities;
 45 amending s. 212.0515, F.S.; deleting provisions
 46 relating to required notice by vending machine
 47 operators, awards for reporting certain violations,
 48 and penalties for certain violations; amending s.
 49 212.0596, F.S.; deleting authority for the department
 50 to establish a waiver for certain registration fees;

Page 2 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

51 amending s. 212.08, F.S.; revising the sales and use
 52 tax exemption for certain farm trailers; exempting
 53 certain animal and aquaculture health products,
 54 fencing materials, and oxygen products from the sales
 55 and use tax; specifying the total amount of community
 56 contribution tax credits that may be granted for
 57 contributions made to eligible sponsors of specified
 58 projects; extending the expiration date of the
 59 community contribution tax credit program; specifying
 60 criteria under which certain entities that operate a
 61 municipally owned golf course may receive a tax
 62 exemption when making payments to a dealer; providing
 63 sales tax exemptions for products used to absorb
 64 menstrual flow, diapers, and incontinence products;
 65 providing an annual sales tax holiday for purchases of
 66 certain clothing and footwear by eligible military
 67 veterans; authorizing certain dealers to opt out of
 68 participating in such tax exemption; providing
 69 requirements to opt out of participation; authorizing
 70 the department to adopt rules; providing a sales tax
 71 exemption for certain sales between related persons as
 72 described under specified federal laws and
 73 regulations; providing requirements for such
 74 exemption; providing definitions; amending s. 212.18,
 75 F.S.; deleting the application fees to obtain a

Page 3 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

76 certificate of registration as a sales tax dealer;
 77 amending s. 220.03, F.S.; extending the expiration
 78 date for the definitions of the terms "community
 79 contribution" and "project" in the income tax code;
 80 amending s. 220.183, F.S.; specifying the total amount
 81 of community contribution tax credits that may be
 82 granted for contributions made to eligible sponsors of
 83 specified projects; extending the expiration date of
 84 specified provisions relating to community
 85 contribution tax credits; amending s. 220.1845, F.S.;
 86 specifying the tax credits available for contaminated
 87 site rehabilitation in a specified year and annually
 88 thereafter; amending s. 220.196, F.S.; specifying the
 89 amount of research and development tax credits that
 90 may be granted to business enterprises in a specified
 91 year; amending s. 220.222, F.S.; deleting a provision
 92 that limits the time period for filing certain
 93 corporate income tax filings; amending s. 220.33,
 94 F.S.; specifying filing days for estimated payments
 95 for corporate income tax purposes; amending s. 320.04,
 96 F.S.; authorizing specified entities to contract with
 97 license tag agents for services related to issuance
 98 and renewal of license tag registrations and motor
 99 vehicle titles; providing requirements for such
 100 contracts; amending ss. 320.08 and 320.10, F.S.;

Page 4 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

101 exempting certain marine boat trailers from license
 102 taxes; amending s. 320.102, F.S.; exempting certain
 103 marine boat trailers from a variety of fees, charges,
 104 taxes, and surcharges; amending s. 336.021, F.S.;
 105 authorizing a county to reimpose a current local
 106 option fuel tax rate under certain circumstances;
 107 amending 336.025, F.S.; authorizing a county to
 108 reimpose a current local option fuel tax rate under
 109 certain circumstances; requiring the rescission of
 110 such rate on a specified date; amending s. 376.30781,
 111 F.S.; revising the total amount of tax credits that
 112 may be granted for the rehabilitation of drycleaning-
 113 solvent-contaminated sites and brownfield sites in a
 114 specified year and annually thereafter; amending s.
 115 376.70, F.S.; deleting provisions relating to
 116 drycleaning facility registration fees; amending s.
 117 376.75, F.S.; deleting the registration fee for a
 118 certain pollutant tax license to import
 119 perchloroethylene; amending ss. 443.131 and 443.141,
 120 F.S.; revising the date on which certain employer
 121 contributions are due; providing a definition;
 122 amending s. 443.163, F.S.; authorizing the tax
 123 collection service provider to waive penalties for
 124 late-filed returns under certain circumstances;
 125 amending s. 563.01, F.S.; revising the definitions of

Page 5 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

126 the terms "beer" and "malt beverage" for purposes of
 127 the Beverage Law; amending s. 624.5105, F.S.;
 128 specifying the total amount of community contribution
 129 tax credits that may be granted each fiscal year;
 130 extending the expiration date of specified provisions
 131 relating to community contribution tax credits;
 132 amending s. 733.2121, F.S.; requiring a personal
 133 representative to serve notice of creditors on the
 134 department only if the department is a creditor;
 135 providing sales tax exemptions for the retail sale of
 136 certain clothing, school supplies, personal computers,
 137 personal computer-related accessories, disaster
 138 preparedness supplies, and educational textbooks and
 139 instructional materials during specified periods;
 140 providing exceptions; authorizing, and providing
 141 requirements for, certain dealers to opt out of
 142 participating in such tax exemption; authorizing the
 143 department to adopt emergency rules; amending s.
 144 206.998, F.S.; conforming provisions to changes made
 145 by this act; providing repeal dates; providing for
 146 retroactive application; providing applicability;
 147 providing appropriations; providing effective dates.

149 Be It Enacted by the Legislature of the State of Florida:
 150

Page 6 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

151 Section 1. Paragraph (c) is added to subsection (4) of
152 section 196.1975, Florida Statutes, to read:

153 196.1975 Exemption for property used by nonprofit homes
154 for the aged.—Nonprofit homes for the aged are exempt to the
155 extent that they meet the following criteria:

156 (4)

157 (c) Each not-for-profit corporation applying for an
158 exemption under paragraph (a) must file with its annual
159 application for exemption an affidavit approved by the
160 Department of Revenue from each person who occupies a unit or
161 apartment stating the person's income. The affidavit is prima
162 facie evidence of the person's income. The corporation is not
163 required to provide an affidavit from a resident who is a
164 totally and permanently disabled veteran who meets the
165 requirements of s. 196.081. If, at a later time, the property
166 appraiser determines that additional documentation proving an
167 affiant's income is necessary, the property appraiser may
168 request such documentation.

169 Section 2. Effective January 1, 2018, section 196.1978,
170 Florida Statutes, is amended to read:

171 196.1978 Affordable housing property exemption.—

172 (1) Property used to provide affordable housing to
173 eligible persons as defined by s. 159.603 and natural persons or
174 families meeting the extremely-low-income, very-low-income, low-
175 income, or moderate-income limits specified in s. 420.0004,

Page 7 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

176 which is owned entirely by a nonprofit entity that is a
177 corporation not for profit, qualified as charitable under s.
178 501(c)(3) of the Internal Revenue Code and in compliance with
179 Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned
180 by an exempt entity and used for a charitable purpose, and those
181 portions of the affordable housing property that provide housing
182 to natural persons or families classified as extremely low
183 income, very low income, low income, or moderate income under s.
184 420.0004 are exempt from ad valorem taxation to the extent
185 authorized under s. 196.196. All property identified in this
186 section must comply with the criteria provided under s. 196.195
187 for determining exempt status and applied by property appraisers
188 on an annual basis. The Legislature intends that any property
189 owned by a limited liability company which is disregarded as an
190 entity for federal income tax purposes pursuant to Treasury
191 Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole
192 member.

193 (2) (a) Notwithstanding ss. 196.195 and 196.196, property
194 in a multifamily project that meets the requirements of this
195 paragraph is considered property used for a charitable purpose
196 and shall receive a 50 percent discount from the amount of ad
197 valorem tax otherwise owed beginning in the 16th year of the
198 term of the recorded agreement on those portions of the
199 affordable housing property that provide housing to natural
200 persons or families meeting the extremely-low-income, very-low-

Page 8 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

201 income, or low-income limits specified in s. 420.0004. The
 202 multifamily project must:
 203 1. Contain more than 70 units that are used to provide
 204 affordable housing to natural persons or families meeting the
 205 extremely-low-income, very-low-income, or low-income limits
 206 specified in s. 420.0004; and
 207 2. Be subject to an agreement with the Florida Housing
 208 Finance Corporation recorded in the official records of the
 209 county in which the property is located to provide affordable
 210 housing to natural persons or families meeting the extremely-
 211 low-income, very-low-income, or low-income limits specified in
 212 s. 420.0004.
 213
 214 This discount terminates if the property no longer serves
 215 extremely-low-income, very-low-income, or low-income persons
 216 pursuant to the recorded agreement.
 217 (b) To receive the discount under paragraph (a), a
 218 qualified applicant must submit an application to the county
 219 property appraiser by March 1.
 220 (c) The property appraiser shall apply the discount by
 221 reducing the taxable value on those portions of the affordable
 222 housing property that provide housing to natural persons or
 223 families meeting the extremely-low-income, very-low-income, or
 224 low-income limits specified in s. 420.0004 before certifying the
 225 tax roll to the tax collector.

Page 9 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

226 1. The property appraiser shall first ascertain all other
 227 applicable exemptions, including exemptions provided pursuant to
 228 local option, and deduct all other exemptions from the assessed
 229 value.
 230 2. Fifty percent of the remaining value shall be
 231 subtracted to yield the discounted taxable value.
 232 3. The resulting taxable value shall be included in the
 233 certification for use by taxing authorities in setting millage.
 234 4. The property appraiser shall place the discounted
 235 amount on the tax roll when it is extended.
 236 Section 3. Effective upon this act becoming a law, section
 237 198.30, Florida Statutes, is amended to read:
 238 198.30 Circuit judge to report names of decedents, etc.—
 239 Each circuit judge of this state shall, on or before the 10th
 240 day of every month, notify the Agency for Health Care
 241 Administration department of the names of all decedents; the
 242 names and addresses of the respective personal representatives,
 243 administrators, or curators appointed; the amount of the bonds,
 244 if any, required by the court; and the probable value of the
 245 estates, in all estates of decedents whose wills have been
 246 probated or propounded for probate before the circuit judge or
 247 upon which letters testamentary or upon whose estates letters of
 248 administration or curatorship have been sought or granted,
 249 during the preceding month; and such report shall contain any
 250 other information which the circuit judge may have concerning

Page 10 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

251 the estates of such decedents. ~~In addition, a copy of this~~
 252 ~~report shall be provided to the Agency for Health Care~~
 253 ~~Administration.~~ A circuit judge shall also furnish forthwith
 254 such further information, from the records and files of the
 255 circuit court in regard to such estates, as the department may
 256 from time to time require.

257 Section 4. Paragraph (c) of subsection (11) of section
 258 192.001, Florida Statutes, is amended to read:

259 192.001 Definitions.—All definitions set out in chapters 1
 260 and 200 that are applicable to this chapter are included herein.
 261 In addition, the following definitions shall apply in the
 262 imposition of ad valorem taxes:

263 (11) "Personal property," for the purposes of ad valorem
 264 taxation, shall be divided into four categories as follows:

265 (c)1. "Inventory" means only those chattels consisting of
 266 items commonly referred to as goods, wares, and merchandise (as
 267 well as inventory) which are held for sale or lease to customers
 268 in the ordinary course of business. Supplies and raw materials
 269 shall be considered to be inventory only to the extent that they
 270 are acquired for sale or lease to customers in the ordinary
 271 course of business or will physically become a part of
 272 merchandise intended for sale or lease to customers in the
 273 ordinary course of business. Partially finished products which
 274 when completed will be held for sale or lease to customers in
 275 the ordinary course of business shall be deemed items of

Page 11 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

276 inventory. All livestock shall be considered inventory. Items of
 277 inventory held for lease to customers in the ordinary course of
 278 business, rather than for sale, shall be deemed inventory only
 279 prior to the initial lease of such items. For the purposes of
 280 this section, fuels used in the production of electricity shall
 281 be considered inventory.

282 2. "Inventory" also means construction and agricultural
 283 equipment weighing 1,000 pounds or more that is returned to a
 284 dealership under a rent-to-purchase option and held for sale to
 285 customers in the ordinary course of business. This subparagraph
 286 may not be considered in determining whether property that is
 287 not construction and agricultural equipment weighing 1,000
 288 pounds or more that is returned under a rent-to-purchase option
 289 is inventory under subparagraph 1.

290 Section 5. Effective January 1, 2018, subsections (2),
 291 (3), and (4), and paragraph (b) of subsection (8) of section
 292 206.02, Florida Statutes, are amended to read:

293 206.02 Application for license; temporary license;
 294 terminal suppliers, importers, exporters, blenders, biodiesel
 295 manufacturers, and wholesalers.—

296 (2) To procure a terminal supplier license, a person shall
 297 file with the department an application under oath, and in such
 298 form as the department may prescribe, setting forth:

299 (a) The name under which the person will transact business
 300 within the state and that person's registration number under s.

Page 12 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

301 4101 of the Internal Revenue Code.

302 (b) The location, with street number address, of his or
303 her principal office or place of business and the location where
304 records will be made available for inspection.

305 (c) The name and complete residence address of the owner
306 or the names and addresses of the partners, if such person is a
307 partnership, or of the principal officers, if such person is a
308 corporation or association; and, if such person is a corporation
309 organized under the laws of another state, territory, or
310 country, he or she shall also indicate the state, territory, or
311 country where the corporation is organized and the date the
312 corporation was registered with the Department of State as a
313 foreign corporation authorized to transact business in the
314 state.

315
316 ~~The application shall require a \$30 license tax. Each license~~
317 ~~shall be renewed annually through application, including an~~
318 ~~annual \$30 license tax.~~

319 (3) To procure an importer, exporter, or blender of motor
320 fuels license, a person shall file with the department an
321 application under oath, and in such form as the department may
322 prescribe, setting forth:

323 (a) The name under which the person will transact business
324 within the state.

325 (b) The location, with street number address, of his or

Page 13 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

326 her principal office or place of business and the location where
327 records will be made available for inspection.

328 (c) The name and complete residence address of the owner
329 or the names and addresses of the partners, if such person is a
330 partnership, or of the principal officers, if such person is a
331 corporation or association; and, if such person is a corporation
332 organized under the laws of another state, territory, or
333 country, he or she shall also indicate the state, territory, or
334 country where the corporation is organized and the date the
335 corporation was registered with the Department of State as a
336 foreign corporation authorized to transact business in the
337 state.

338
339 ~~The application shall require a \$30 license tax. Each license~~
340 ~~shall be renewed annually through application, including an~~
341 ~~annual \$30 license tax.~~

342 (4) To procure a wholesaler of motor fuel license, a
343 person shall file with the department an application under oath
344 and in such form as the department may prescribe, setting forth:

345 (a) The name under which the person will transact business
346 within the state.

347 (b) The location, with street number address, of his or
348 her principal office or place of business within this state and
349 the location where records will be made available for
350 inspection.

Page 14 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

351 (c) The name and complete residence address of the owner
 352 or the names and addresses of the partners, if such person is a
 353 partnership, or of the principal officers, if such person is a
 354 corporation or association; and, if such person is a corporation
 355 organized under the laws of another state, territory, or
 356 country, he or she shall also indicate the state, territory, or
 357 country where the corporation is organized and the date the
 358 corporation was registered with the Department of State as a
 359 foreign corporation authorized to transact business in the
 360 state.

361
 362 ~~The application shall require a \$30 license tax. Each license~~
 363 ~~shall be renewed annually through application, including an~~
 364 ~~annual \$30 license fee.~~

365 (8)

366 (b) Notwithstanding the provisions of this chapter
 367 requiring a license ~~tax~~ and a bond or criminal background check,
 368 the department may issue a temporary license as an importer or
 369 exporter to a person who holds a valid Florida wholesaler
 370 license or to a person who is an unlicensed dealer. A license
 371 may be issued under this subsection only to a business that has
 372 a physical location in this state and holds a valid Florida
 373 sales and use tax certificate of registration or that holds a
 374 valid fuel license issued by another state.

375 Section 6. Effective January 1, 2018, subsection (3) and

Page 15 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

376 paragraph (b) of subsection (5) of section 206.021, Florida
 377 Statutes, are amended to read:

378 206.021 Application for license; carriers.—

379 (3) ~~The application shall require a \$30 license tax. Each~~
 380 ~~license shall be renewed annually through application, including~~
 381 ~~an annual \$30 license tax.~~

382 (5)

383 (b) Notwithstanding the provisions of this chapter
 384 requiring a license ~~tax~~ and a bond or criminal background check,
 385 the department may issue a temporary license as a carrier to a
 386 person who holds a valid Florida wholesaler, importer, exporter,
 387 or blender license or to a person who is an unlicensed dealer. A
 388 license may be issued under this subsection only to a business
 389 that has a physical location in this state and holds a valid
 390 Florida sales and use tax certificate of registration or that
 391 holds a valid fuel license issued by another state.

392 Section 7. Effective January 1, 2018, subsection (2) of
 393 section 206.022, Florida Statutes, is amended to read:

394 206.022 Application for license; terminal operators.—

395 (2) ~~The application shall require a \$30 license tax. Each~~
 396 ~~license shall be renewed annually through application, including~~
 397 ~~an annual \$30 license tax.~~

398 Section 8. Effective January 1, 2018, subsection (1) of
 399 section 206.03, Florida Statutes, is amended to read:

400 206.03 Licensing of terminal suppliers, importers,

Page 16 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

401 exporters, and wholesalers.—

402 (1) The application in proper form having been accepted
403 for filing, ~~the filing fee paid,~~ and the bond accepted and
404 approved, except as provided in s. 206.05(1), the department
405 shall issue to such person a license to transact business in the
406 state, subject to cancellation of such license as provided by
407 law.

408 Section 9. Effective January 1, 2018, section 206.045,
409 Florida Statutes, is amended to read:

410 206.045 Licensing period; ~~cost for license issuance.—~~
411 ~~Beginning January 1, 1998,~~ The licensing period under this
412 chapter shall be a calendar year, or any part thereof. ~~The cost~~
413 ~~of any such license issued pursuant to this chapter shall be~~
414 ~~\$30.~~

415 Section 10. Effective January 1, 2018, sections 206.405
416 and 206.406, Florida Statutes, are repealed.

417 Section 11. Effective January 1, 2018, paragraph (c) of
418 subsection (5) of section 206.41, Florida Statutes, is amended
419 to read:

420 206.41 State taxes imposed on motor fuel.—

421 (5)

422 (c)1. No refund may be authorized unless a sworn
423 application therefor containing such information as the
424 department may determine is filed with the department not later
425 than the last day of the month following the quarter for which

Page 17 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

426 the refund is claimed. However, when a justified excuse for late
427 filing is presented to the department and the last preceding
428 claim was filed on time, the deadline for filing may be extended
429 an additional month. No refund will be authorized unless the
430 amount due is for \$5 or more for any refund period and unless
431 application is made upon forms prescribed by the department.

432 2. Claims made for refunds provided pursuant to subsection
433 (4) shall be paid quarterly. ~~The department shall deduct a fee~~
434 ~~of \$2 for each claim, which fee shall be deposited in the~~
435 ~~General Revenue Fund.~~

436 Section 12. Effective January 1, 2018, subsection (3) of
437 section 206.9943, Florida Statutes, is amended to read:

438 206.9943 Pollutant tax license.—

439 (3) The license must be renewed annually, ~~and the fee for~~
440 ~~original application or renewal is \$30.~~

441 Section 13. Effective January 1, 2018, subsection (9) of
442 section 206.9952, Florida Statutes, is amended to read:

443 206.9952 Application for license as a natural gas fuel
444 retailer.—

445 (9) ~~The license application requires a license fee of \$5.~~
446 Each license shall be renewed annually by submitting a
447 reapplication ~~and the license fee~~ to the department. ~~The license~~
448 ~~fee shall be paid to the department for deposit into the General~~
449 ~~Revenue Fund.~~

450 Section 14. Effective January 1, 2018, subsection (3) of

Page 18 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

451 section 206.9865, Florida Statutes, is amended to read:

452 206.9865 Commercial air carriers; registration;
453 reporting.-

454 (3) The application must be renewed annually ~~and the fee~~
455 ~~for application or renewal is \$30.~~

456 Section 15. Paragraph (c) of subsection (2) of section
457 210.20, Florida Statutes, is amended to read:

458 210.20 Employees and assistants; distribution of funds.-

459 (2) As collections are received by the division from such
460 cigarette taxes, it shall pay the same into a trust fund in the
461 State Treasury designated "Cigarette Tax Collection Trust Fund"
462 which shall be paid and distributed as follows:

463 ~~(e) Beginning July 1, 2013, and continuing through June~~
464 ~~30, 2033, the division shall from month to month certify to the~~
465 ~~Chief Financial Officer the amount derived from the cigarette~~
466 ~~tax imposed by s. 210.02, less the service charges provided for~~
467 ~~in s. 215.20 and less 0.9 percent of the amount derived from the~~
468 ~~cigarette tax imposed by s. 210.02, which shall be deposited~~
469 ~~into the Alcoholic Beverage and Tobacco Trust Fund, specifying~~
470 ~~an amount equal to 1 percent of the net collections, and that~~
471 ~~amount shall be deposited into the Biomedical Research Trust~~
472 ~~Fund in the Department of Health. These funds are appropriated~~
473 ~~annually in an amount not to exceed \$3 million from the~~
474 ~~Biomedical Research Trust Fund for the Department of Health and~~
475 ~~the Sanford-Burnham Medical Research Institute to work in~~

Page 19 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

476 ~~conjunction for the purpose of establishing activities and grant~~
477 ~~opportunities in relation to biomedical research.~~

478 Section 16. Effective January 1, 2018, paragraphs (c) and
479 (d) of subsection (1) of section 212.031, Florida Statutes, are
480 amended, and paragraph (e) is added to that subsection, to read:

481 212.031 Tax on rental or license fee for use of real
482 property.-

483 (1)

484 (c) For the exercise of such privilege, a tax is levied at
485 the rate of 5.5 in an amount equal to 6 percent, except for the
486 period beginning January 1, 2018, and ending December 31, 2019,
487 during which period the tax shall be levied at the rate of 4.5
488 percent, of and on the total rent or license fee charged for
489 such real property by the person charging or collecting the
490 rental or license fee. The total rent or license fee charged for
491 such real property shall include payments for the granting of a
492 privilege to use or occupy real property for any purpose and
493 shall include base rent, percentage rents, or similar charges.
494 Such charges shall be included in the total rent or license fee
495 subject to tax under this section whether or not they can be
496 attributed to the ability of the lessor's or licensor's property
497 as used or operated to attract customers. Payments for
498 intrinsically valuable personal property such as franchises,
499 trademarks, service marks, logos, or patents are not subject to
500 tax under this section. In the case of a contractual arrangement

Page 20 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

501 that provides for both payments taxable as total rent or license
 502 fee and payments not subject to tax, the tax shall be based on a
 503 reasonable allocation of such payments and shall not apply to
 504 that portion which is for the nontaxable payments.

505 (d) When the rental or license fee of any such real
 506 property is paid by way of property, goods, wares, merchandise,
 507 services, or other thing of value, the tax shall be at the rate
 508 of 5.5 percent, except for the period beginning January 1,
 509 2018, and ending December 31, 2019, during which period the tax
 510 shall be levied at the rate of 4.5 percent, of the value of the
 511 property, goods, wares, merchandise, services, or other thing of
 512 value.

513 (e) The tax rate in effect at the time that the tenant or
 514 person occupies, uses, or is entitled to occupy or use the real
 515 property is the tax rate applicable to the transaction taxable
 516 under this section, regardless of when a rent or license fee
 517 payment is due or paid. The applicable tax rate may not be
 518 avoided by delaying or accelerating rent or license fee
 519 payments.

520 Section 17. Paragraph (c) of subsection (1) of section
 521 212.04, Florida Statutes, is amended to read:

522 212.04 Admissions tax; rate, procedure, enforcement.—

523 (1)

524 (c) 1. The provisions of this chapter that authorize a tax-
 525 exempt sale for resale do not apply to sales of admissions.

Page 21 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

526 However, if a purchaser of an admission subsequently resells the
 527 admission for more than the amount paid, the purchaser shall
 528 collect tax on the full sales price and may take credit for the
 529 amount of tax previously paid. If the purchaser of the admission
 530 subsequently resells it for an amount equal to or less than the
 531 amount paid, the purchaser may ~~shall~~ not collect any additional
 532 tax or, nor shall the purchaser be allowed to take credit for
 533 the amount of tax previously paid.

534 2. If a purchaser subsequently resells an admission to an
 535 entity that has a valid sales tax exemption certificate from the
 536 department, excluding an annual resale certificate, the
 537 purchaser may seek from the vendor a refund or credit for the
 538 amount of tax paid. Upon an adequate showing of the ultimate
 539 exempt nature of the transaction, the vendor shall refund or
 540 credit the tax paid by the purchaser and may then seek a refund
 541 or credit of the tax from the department based on the ultimate
 542 exempt nature of the transaction. The refund or credit is
 543 allowable only if the vendor can show that the tax on the exempt
 544 transaction has been remitted to the department. If the tax has
 545 not yet been remitted to the department, the vendor may retain
 546 the exemption documentation in lieu of remitting tax to the
 547 department.

548 Section 18. Effective January 1, 2018, subsections (5)
 549 through (7) of section 212.0515, Florida Statutes, are
 550 renumbered as subsections (4) through (6), respectively, and

Page 22 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

551 current subsections (3), (4), and (7) of that section are
 552 amended to read:

553 212.0515 Sales from vending machines; sales to vending
 554 machine operators; special provisions; registration; ~~penalties.~~

555 (3) (a) An operator of a vending machine may not operate or
 556 cause to be operated in this state any vending machine until the
 557 operator has registered with the department and, has obtained a
 558 separate registration certificate for each county in which such
 559 machines are located, ~~and has affixed a notice to each vending~~
 560 ~~machine selling food or beverages. The notice must be~~
 561 ~~conspicuously displayed on the vending machine when it is being~~
 562 ~~operated in this state and shall contain the following language~~
 563 ~~in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES~~
 564 ~~THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING~~
 565 ~~MACHINES. REPORT ANY MACHINE WITHOUT A NOTICE TO (TOLL-FREE~~
 566 ~~NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD. DO NOT USE THIS~~
 567 ~~NUMBER TO REPORT PROBLEMS WITH THE VENDING MACHINE SUCH AS LOST~~
 568 ~~MONEY OR OUT-OF-DATE PRODUCTS.~~

569 (b) The department shall establish a toll-free number to
 570 report any violations of this section. ~~Upon a determination that~~
 571 ~~a violation has occurred, the department shall pay the informant~~
 572 ~~a reward of up to 10 percent of previously unpaid taxes~~
 573 ~~recovered as a result of the information provided. A person who~~
 574 ~~receives information concerning a violation of this section from~~
 575 ~~an employee as specified in s. 213.30 is not eligible for a cash~~

Page 23 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

576 ~~reward.~~

577 ~~(4) A penalty of \$250 per machine is imposed on an~~
 578 ~~operator who fails to properly obtain and display the required~~
 579 ~~notice on any machine. Penalties accrue interest as provided for~~
 580 ~~delinquent taxes under this chapter and apply in addition to all~~
 581 ~~other applicable taxes, interest, and penalties.~~

582 (6) ~~(7)~~ The department may adopt rules necessary to
 583 administer ~~the provisions of this section and may establish a~~
 584 ~~schedule for phasing in the requirement that existing notices be~~
 585 ~~replaced with revised notices displayed on vending machines.~~

586 Section 19. Effective January 1, 2018, subsection (7) of
 587 section 212.0596, Florida Statutes, is amended to read:

588 212.0596 Taxation of mail order sales.—

589 (7) The department may establish by rule procedures for
 590 collecting the use tax from unregistered persons who but for
 591 their mail order purchases would not be required to remit sales
 592 or use tax directly to the department. The procedures may
 593 provide for waiver of registration ~~and registration fees,~~
 594 provisions for irregular remittance of tax, elimination of the
 595 collection allowance, and nonapplication of local option
 596 surtaxes.

597 Section 20. Paragraph (b) of subsection (3) and paragraphs
 598 (a) and (p) of subsection (5) of section 212.08, Florida
 599 Statutes, are amended, paragraph (d) is added to subsection (6),
 600 paragraphs (ooo) and (ppp) are added to subsection (7), and

Page 24 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

601 subsections (19) and (20) are added to that section, to read:

602 212.08 Sales, rental, use, consumption, distribution, and

603 storage tax; specified exemptions.—The sale at retail, the

604 rental, the use, the consumption, the distribution, and the

605 storage to be used or consumed in this state of the following

606 are hereby specifically exempt from the tax imposed by this

607 chapter.

608 (3) EXEMPTIONS; CERTAIN FARM EQUIPMENT.—

609 (b) The tax may not be imposed on that portion of the

610 sales price below \$25,000 ~~\$20,000~~ for a trailer weighing 12,000

611 pounds or less and purchased by a farmer for exclusive use in

612 agricultural production or to transport farm products from his

613 or her farm to the place where the farmer transfers ownership of

614 the farm products to another. This exemption is not forfeited by

615 using a trailer to transport the farmer's farm equipment. The

616 exemption provided under this paragraph does not apply to the

617 lease or rental of a trailer.

618 (5) EXEMPTIONS; ACCOUNT OF USE.—

619 (a) Items in agricultural use and certain nets.—There are

620 exempt from the tax imposed by this chapter nets designed and

621 used exclusively by commercial fisheries; disinfectants,

622 fertilizers, insecticides, pesticides, herbicides, fungicides,

623 and weed killers used for application on crops or groves,

624 including commercial nurseries and home vegetable gardens, used

625 in dairy barns or on poultry farms for the purpose of protecting

Page 25 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

626 poultry or livestock, or used directly on poultry or livestock;

627 animal health products that are administered to, applied to, or

628 consumed by livestock or poultry to alleviate pain or cure or

629 prevent sickness, disease, or suffering, including antiseptics,

630 absorbent cotton, gauze for bandages, lotions, vaccines,

631 vitamins, and worm remedies; aquaculture health products;

632 portable containers or movable receptacles in which portable

633 containers are placed, used for processing farm products; field

634 and garden seeds, including flower seeds; nursery stock,

635 seedlings, cuttings, or other propagative material purchased for

636 growing stock; seeds, seedlings, cuttings, and plants used to

637 produce food for human consumption; cloth, plastic, and other

638 similar materials used for shade, mulch, or protection from

639 frost or insects on a farm; hog wire and nylon mesh netting used

640 on a farm for protection from predatory or destructive animals;

641 barbed wire fencing, including gates and materials used to

642 construct or repair such fencing, used on a beef or dairy cattle

643 farm; compressed or liquefied oxygen used in aquaculture

644 production; stakes used by a farmer to support plants during

645 agricultural production; generators used on poultry farms; and

646 liquefied petroleum gas or other fuel used to heat a structure

647 in which started pullets or broilers are raised; however, such

648 exemption is not allowed unless the purchaser or lessee signs a

649 certificate stating that the item to be exempted is for the

650 exclusive use designated herein. Also exempt are cellophane

Page 26 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

651 wrappers, glue for tin and glass (apiarists), mailing cases for
 652 honey, shipping cases, window cartons, and baling wire and twine
 653 used for baling hay, when used by a farmer to contain, produce,
 654 or process an agricultural commodity.

655 (p) Community contribution tax credit for donations.—

656 1. Authorization.—Persons who are registered with the
 657 department under s. 212.18 to collect or remit sales or use tax
 658 and who make donations to eligible sponsors are eligible for tax
 659 credits against their state sales and use tax liabilities as
 660 provided in this paragraph:

661 a. The credit shall be computed as 50 percent of the
 662 person's approved annual community contribution.

663 b. The credit shall be granted as a refund against state
 664 sales and use taxes reported on returns and remitted in the 12
 665 months preceding the date of application to the department for
 666 the credit as required in sub-subparagraph 3.c. If the annual
 667 credit is not fully used through such refund because of
 668 insufficient tax payments during the applicable 12-month period,
 669 the unused amount may be included in an application for a refund
 670 made pursuant to sub-subparagraph 3.c. in subsequent years
 671 against the total tax payments made for such year. Carryover
 672 credits may be applied for a 3-year period without regard to any
 673 time limitation that would otherwise apply under s. 215.26.

674 c. A person may not receive more than \$200,000 in annual
 675 tax credits for all approved community contributions made in any

Page 27 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

676 one year.

677 d. All proposals for the granting of the tax credit
 678 require the prior approval of the Department of Economic
 679 Opportunity.

680 e. The total amount of tax credits which may be granted
 681 for all programs approved under this paragraph, s. 220.183, and
 682 s. 624.5105 is ~~\$18.4 million in the 2015-2016 fiscal year, \$21.4~~
 683 ~~million in the 2016-2017 fiscal year, and \$21.4 million each~~
 684 fiscal year in the 2017-2018 fiscal year for projects that
 685 provide housing opportunities for persons with special needs or
 686 homeownership opportunities for low-income households or very-
 687 low-income households and \$3.5 million each fiscal year annually
 688 for all other projects. As used in this paragraph, the term
 689 "person with special needs" has the same meaning as in s.
 690 420.0004 and the terms "low-income person," "low-income
 691 household," "very-low-income person," and "very-low-income
 692 household" have the same meanings as in s. 420.9071.

693 f. A person who is eligible to receive the credit provided
 694 in this paragraph, s. 220.183, or s. 624.5105 may receive the
 695 credit only under one section of the person's choice.

696 2. Eligibility requirements.—

697 a. A community contribution by a person must be in the
 698 following form:

699 (I) Cash or other liquid assets;

700 (II) Real property, including 100 percent ownership of a

Page 28 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

701 real property holding company;
 702 (III) Goods or inventory; or
 703 (IV) Other physical resources identified by the Department
 704 of Economic Opportunity.

705
 706 For purposes of this subparagraph, the term "real property
 707 holding company" means a Florida entity, such as a Florida
 708 limited liability company, that is wholly owned by the person;
 709 is the sole owner of real property, as defined in s.
 710 192.001(12), located in the state; is disregarded as an entity
 711 for federal income tax purposes pursuant to 26 C.F.R. s.
 712 301.7701-3(b)(1)(ii); and at the time of contribution to an
 713 eligible sponsor, has no material assets other than the real
 714 property and any other property that qualifies as a community
 715 contribution.

716 b. All community contributions must be reserved
 717 exclusively for use in a project. As used in this sub-
 718 subparagraph, the term "project" means activity undertaken by an
 719 eligible sponsor which is designed to construct, improve, or
 720 substantially rehabilitate housing that is affordable to low-
 721 income households or very-low-income households; designed to
 722 provide housing opportunities for persons with special needs;
 723 designed to provide commercial, industrial, or public resources
 724 and facilities; or designed to improve entrepreneurial and job-
 725 development opportunities for low-income persons. A project may

Page 29 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

726 be the investment necessary to increase access to high-speed
 727 broadband capability in a rural community that had an enterprise
 728 zone designated pursuant to chapter 290 as of May 1, 2015,
 729 including projects that result in improvements to communications
 730 assets that are owned by a business. A project may include the
 731 provision of museum educational programs and materials that are
 732 directly related to a project approved between January 1, 1996,
 733 and December 31, 1999, and located in an area which was in an
 734 enterprise zone designated pursuant to s. 290.0065 as of May 1,
 735 2015. This paragraph does not preclude projects that propose to
 736 construct or rehabilitate housing for low-income households or
 737 very-low-income households on scattered sites or housing
 738 opportunities for persons with special needs. With respect to
 739 housing, contributions may be used to pay the following eligible
 740 special needs, low-income, and very-low-income housing-related
 741 activities:

742 (I) Project development impact and management fees for
 743 special needs, low-income, or very-low-income housing projects;
 744 (II) Down payment and closing costs for persons with
 745 special needs, low-income persons, and very-low-income persons;
 746 (III) Administrative costs, including housing counseling
 747 and marketing fees, not to exceed 10 percent of the community
 748 contribution, directly related to special needs, low-income, or
 749 very-low-income projects; and
 750 (IV) Removal of liens recorded against residential

Page 30 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

751 property by municipal, county, or special district local
 752 governments if satisfaction of the lien is a necessary precedent
 753 to the transfer of the property to a low-income person or very-
 754 low-income person for the purpose of promoting home ownership.
 755 Contributions for lien removal must be received from a
 756 nonrelated third party.

757 c. The project must be undertaken by an "eligible
 758 sponsor," which includes:

759 (I) A community action program;

760 (II) A nonprofit community-based development organization
 761 whose mission is the provision of housing for persons with
 762 special needs, low-income households, or very-low-income
 763 households or increasing entrepreneurial and job-development
 764 opportunities for low-income persons;

765 (III) A neighborhood housing services corporation;

766 (IV) A local housing authority created under chapter 421;

767 (V) A community redevelopment agency created under s.
 768 163.356;

769 (VI) A historic preservation district agency or
 770 organization;

771 (VII) A local workforce development board;

772 (VIII) A direct-support organization as provided in s.
 773 1009.983;

774 (IX) An enterprise zone development agency created under
 775 s. 290.0056;

Page 31 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

776 (X) A community-based organization incorporated under
 777 chapter 617 which is recognized as educational, charitable, or
 778 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
 779 and whose bylaws and articles of incorporation include
 780 affordable housing, economic development, or community
 781 development as the primary mission of the corporation;

782 (XI) Units of local government;

783 (XII) Units of state government; or

784 (XIII) Any other agency that the Department of Economic
 785 Opportunity designates by rule.

786
 787 A contributing person may not have a financial interest in the
 788 eligible sponsor.

789 d. The project must be located in an area which was in an
 790 enterprise zone designated pursuant to chapter 290 as of May 1,
 791 2015, or a Front Porch Florida Community, unless the project
 792 increases access to high-speed broadband capability in a rural
 793 community that had an enterprise zone designated pursuant to
 794 chapter 290 as of May 1, 2015, but is physically located outside
 795 the designated rural zone boundaries. Any project designed to
 796 construct or rehabilitate housing for low-income households or
 797 very-low-income households or housing opportunities for persons
 798 with special needs is exempt from the area requirement of this
 799 sub-subparagraph.

800 e.(I) If, during the first 10 business days of the state

Page 32 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

801 fiscal year, eligible tax credit applications for projects that
 802 provide housing opportunities for persons with special needs or
 803 homeownership opportunities for low-income households or very-
 804 low-income households are received for less than the annual tax
 805 credits available for those projects, the Department of Economic
 806 Opportunity shall grant tax credits for those applications and
 807 grant remaining tax credits on a first-come, first-served basis
 808 for subsequent eligible applications received before the end of
 809 the state fiscal year. If, during the first 10 business days of
 810 the state fiscal year, eligible tax credit applications for
 811 projects that provide housing opportunities for persons with
 812 special needs or homeownership opportunities for low-income
 813 households or very-low-income households are received for more
 814 than the annual tax credits available for those projects, the
 815 Department of Economic Opportunity shall grant the tax credits
 816 for those applications as follows:

817 (A) If tax credit applications submitted for approved
 818 projects of an eligible sponsor do not exceed \$200,000 in total,
 819 the credits shall be granted in full if the tax credit
 820 applications are approved.

821 (B) If tax credit applications submitted for approved
 822 projects of an eligible sponsor exceed \$200,000 in total, the
 823 amount of tax credits granted pursuant to sub-sub-sub-
 824 subparagraph (A) shall be subtracted from the amount of
 825 available tax credits, and the remaining credits shall be

Page 33 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

826 granted to each approved tax credit application on a pro rata
 827 basis.

828 (II) If, during the first 10 business days of the state
 829 fiscal year, eligible tax credit applications for projects other
 830 than those that provide housing opportunities for persons with
 831 special needs or homeownership opportunities for low-income
 832 households or very-low-income households are received for less
 833 than the annual tax credits available for those projects, the
 834 Department of Economic Opportunity shall grant tax credits for
 835 those applications and shall grant remaining tax credits on a
 836 first-come, first-served basis for subsequent eligible
 837 applications received before the end of the state fiscal year.
 838 If, during the first 10 business days of the state fiscal year,
 839 eligible tax credit applications for projects other than those
 840 that provide housing opportunities for persons with special
 841 needs or homeownership opportunities for low-income households
 842 or very-low-income households are received for more than the
 843 annual tax credits available for those projects, the Department
 844 of Economic Opportunity shall grant the tax credits for those
 845 applications on a pro rata basis.

846 3. Application requirements.—

847 a. An eligible sponsor seeking to participate in this
 848 program must submit a proposal to the Department of Economic
 849 Opportunity which sets forth the name of the sponsor, a
 850 description of the project, and the area in which the project is

Page 34 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

851 located, together with such supporting information as is
 852 prescribed by rule. The proposal must also contain a resolution
 853 from the local governmental unit in which the project is located
 854 certifying that the project is consistent with local plans and
 855 regulations.

856 b. A person seeking to participate in this program must
 857 submit an application for tax credit to the Department of
 858 Economic Opportunity which sets forth the name of the sponsor, a
 859 description of the project, and the type, value, and purpose of
 860 the contribution. The sponsor shall verify, in writing, the
 861 terms of the application and indicate its receipt of the
 862 contribution, and such verification must accompany the
 863 application for tax credit. The person must submit a separate
 864 tax credit application to the Department of Economic Opportunity
 865 for each individual contribution that it makes to each
 866 individual project.

867 c. A person who has received notification from the
 868 Department of Economic Opportunity that a tax credit has been
 869 approved must apply to the department to receive the refund.
 870 Application must be made on the form prescribed for claiming
 871 refunds of sales and use taxes and be accompanied by a copy of
 872 the notification. A person may submit only one application for
 873 refund to the department within a 12-month period.

874 4. Administration.—

875 a. The Department of Economic Opportunity may adopt rules

Page 35 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

876 necessary to administer this paragraph, including rules for the
 877 approval or disapproval of proposals by a person.

878 b. The decision of the Department of Economic Opportunity
 879 must be in writing, and, if approved, the notification shall
 880 state the maximum credit allowable to the person. Upon approval,
 881 the Department of Economic Opportunity shall transmit a copy of
 882 the decision to the department.

883 c. The Department of Economic Opportunity shall
 884 periodically monitor all projects in a manner consistent with
 885 available resources to ensure that resources are used in
 886 accordance with this paragraph; however, each project must be
 887 reviewed at least once every 2 years.

888 d. The Department of Economic Opportunity shall, in
 889 consultation with the statewide and regional housing and
 890 financial intermediaries, market the availability of the
 891 community contribution tax credit program to community-based
 892 organizations.

893 5. Expiration.—This paragraph expires June 30, 2019 ~~2018~~;
 894 however, any accrued credit carryover that is unused on that
 895 date may be used until the expiration of the 3-year carryover
 896 period for such credit.

897 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—

898 (d) For purposes of paragraph (a), the phrase "when
 899 payment is made directly to the dealer by the governmental
 900 entity" includes situations in which an entity under contract

Page 36 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

901 with a municipality to maintain and operate a municipally owned
 902 golf course pays for a purchase or lease for the operation or
 903 maintenance of that golf course using the golf course revenues
 904 or other funds provided by the municipality for use by that
 905 entity. This paragraph applies to a municipally owned golf
 906 course that is:

907 1. Located in a county with a population of at least 2
 908 million residents.

909 2. The site upon which youth education programs are
 910 delivered on an ongoing basis by a nonprofit organization that
 911 is exempt from federal income tax under s. 501(c)(3) of the
 912 Internal Revenue Code.

913 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 914 entity by this chapter do not inure to any transaction that is
 915 otherwise taxable under this chapter when payment is made by a
 916 representative or employee of the entity by any means,
 917 including, but not limited to, cash, check, or credit card, even
 918 when that representative or employee is subsequently reimbursed
 919 by the entity. In addition, exemptions provided to any entity by
 920 this subsection do not inure to any transaction that is
 921 otherwise taxable under this chapter unless the entity has
 922 obtained a sales tax exemption certificate from the department
 923 or the entity obtains or provides other documentation as
 924 required by the department. Eligible purchases or leases made
 925 with such a certificate must be in strict compliance with this

Page 37 of 76

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

hb7109-01-e1



HB 7109, Engrossed 1

2017

926 subsection and departmental rules, and any person who makes an
 927 exempt purchase with a certificate that is not in strict
 928 compliance with this subsection and the rules is liable for and
 929 shall pay the tax. The department may adopt rules to administer
 930 this subsection.

931 (ooo) Products used to absorb menstrual flow.—Effective
 932 January 1, 2018, products used to absorb menstrual flow are
 933 exempt from the tax imposed by this chapter. As used in this
 934 paragraph, the term "products used to absorb menstrual flow"
 935 means products used to absorb or contain menstrual flow,
 936 including, but not limited to, tampons, sanitary napkins,
 937 pantliners, and menstrual cups.

938 (ppp) Diapers and incontinence products.—Effective January
 939 1, 2018, diapers, incontinence undergarments, incontinence pads,
 940 and incontinence liners for use by humans are exempt from the
 941 tax imposed by this chapter.

942 (19) SALES TAX HOLIDAY FOR VETERANS OF THE UNITED STATES
 943 ARMED FORCES.—

944 (a) The tax levied under chapter 212, Florida Statutes,
 945 may not be collected from a veteran, as defined in paragraph
 946 (b), during the period from 12:01 a.m. on November 11 through
 947 11:59 p.m. on November 11, annually, on the retail sale, as
 948 defined in s. 212.02(14), of clothing with a sales price of \$60
 949 or less per item. As used in this paragraph, the term "clothing"
 950 means:

Page 38 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

951 1. Any article of wearing apparel intended to be worn on
 952 or about the human body, excluding watches, watchbands, jewelry,
 953 umbrellas, and handkerchiefs.

954 2. All footwear, excluding skis, swim fins, roller blades,
 955 and skates.

956 (b) Notwithstanding any action by the United States
 957 Department of Veterans Affairs relating to dishonorable
 958 discharges, the term "veteran" means a person who served in the
 959 active military, naval, or air service who was honorably
 960 discharged or released or who later received an upgraded
 961 honorable discharge or release. To be eligible for the sales tax
 962 holiday, a veteran must show proof of military status at the
 963 time he or she purchases the eligible items. The veteran may
 964 show proof of military status by presenting his or her:

965 1. DD Form 2, Uniformed Services Identification Card,
 966 issued by the United States Department of Defense;

967 2. DD Form 2765, Uniformed Services Identification and
 968 Privilege Card, issued by the United States Department of
 969 Defense;

970 3. DD Form 214, displaying the term "Honorable," issued by
 971 the United States Department of Defense;

972 4. Veteran identification card, issued to a veteran with a
 973 100-percent disability by the Department of Veterans' Affairs
 974 under s. 295.17;

975 5. Veteran health identification card, issued by the

Page 39 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

976 United States Department of Veterans Affairs;

977 6. Valid driver license or identification card, displaying
 978 the letter "V" or the term "Veteran," issued by the Department
 979 of Highway Safety and Motor Vehicles; or

980 7. Any other proof of veteran status issued by the
 981 Department of Highway Safety and Motor Vehicles.

982 (c) A retailer making tax-exempt sales under this
 983 subsection shall report to the Department of Revenue the amount
 984 of its gross sales on the retailer's sales and use tax return.

985 (d) The tax exemptions provided in this subsection do not
 986 apply to sales within a theme park or entertainment complex as
 987 defined in s. 509.013(9), within a public lodging establishment
 988 as defined in s. 509.013(4), or within an airport as defined in
 989 s. 330.27(2).

990 (e) The tax exemptions provided in this subsection apply
 991 at the option of a retailer if less than 5 percent of the
 992 retailer's gross sales of tangible personal property in the
 993 prior calendar year are comprised of clothing as defined in
 994 paragraph (a) with a sales price of \$60 or less per item. If a
 995 qualifying retailer chooses not to participate in the sales tax
 996 holiday, the retailer must notify the Department of Revenue in
 997 writing, by November 1, annually, of its election to collect
 998 sales tax during the holiday and must post a copy of that notice
 999 in a conspicuous location at its place of business.

1000 (f) The Department of Revenue may adopt rules to

Page 40 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1001 administer this subsection.

1002 (20) DODD-FRANK EXEMPTION.—Tangible personal property or

1003 services otherwise taxable under this chapter and sold by a

1004 vendor to a related person, as described in 26 U.S.C. s. 267(b),

1005 are exempt from the tax imposed by this chapter, except for the

1006 taxes imposed by s. 212.031, if the purchaser can show that the

1007 following conditions have been met:

1008 (a)1. The vendor and the purchaser are referenced as a

1009 "covered company," as defined in 12 C.F.R. s. 243.2(f), or a

1010 "material entity," as defined in 12 C.F.R. s. 243.2(l), in a

1011 resolution plan that has been submitted to an agency of the

1012 United States to satisfy 12 U.S.C. s. 5365(d)(1) or any

1013 successor law; or

1014 2. The vendor and the purchaser are separate legal

1015 entities pursuant to a divestiture directed pursuant to 12

1016 U.S.C. s. 5365(d)(5) or any successor law; and

1017 (b) The sale would not have occurred between such related

1018 entities were it not for such resolution plan or divestiture;

1019 (c) The services sold by the vendor to the purchaser are

1020 performed by an employee of the vendor or by an independent

1021 contractor hired by the vendor, if the vendor paid the tax

1022 imposed under this chapter; and

1023 (d) In acquiring such property or services, the vendor did

1024 not claim an exemption from the tax imposed under this chapter

1025 or by another state.

Page 41 of 76

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

hb7109-01-e1



HB 7109, Engrossed 1

2017

1026 Section 21. Effective January 1, 2018, paragraphs (a) and

1027 (c) of subsection (3) of section 212.18, Florida Statutes, are

1028 amended to read:

1029 212.18 Administration of law; registration of dealers;

1030 rules.—

1031 (3)(a) A person desiring to engage in or conduct business

1032 in this state as a dealer, or to lease, rent, or let or grant

1033 licenses in living quarters or sleeping or housekeeping

1034 accommodations in hotels, apartment houses, roominghouses, or

1035 tourist or trailer camps that are subject to tax under s.

1036 212.03, or to lease, rent, or let or grant licenses in real

1037 property, and a person who sells or receives anything of value

1038 by way of admissions, must file with the department an

1039 application for a certificate of registration for each place of

1040 business. The application must include the names of the persons

1041 who have interests in such business and their residences, the

1042 address of the business, and other data reasonably required by

1043 the department. However, owners and operators of vending

1044 machines or newspaper rack machines are required to obtain only

1045 one certificate of registration for each county in which such

1046 machines are located. The department, by rule, may authorize a

1047 dealer that uses independent sellers to sell its merchandise to

1048 remit tax on the retail sales price charged to the ultimate

1049 consumer in lieu of having the independent seller register as a

1050 dealer and remit the tax. The department may appoint the county

Page 42 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1051 tax collector as the department's agent to accept applications
 1052 for registrations. The application must be submitted to the
 1053 department before the person, firm, copartnership, or
 1054 corporation may engage in such business, ~~and it must be~~
 1055 ~~accompanied by a registration fee of \$5. However, a registration~~
 1056 ~~fee is not required to accompany an application to engage in or~~
 1057 ~~conduct business to make mail order sales. The department may~~
 1058 ~~waive the registration fee for applications submitted through~~
 1059 ~~the department's Internet registration process.~~

1060 (c)1. A person who engages in acts requiring a certificate
 1061 of registration under this subsection and who fails or refuses
 1062 to register commits a misdemeanor of the first degree,
 1063 punishable as provided in s. 775.082 or s. 775.083. Such acts
 1064 are subject to injunctive proceedings as provided by law. A
 1065 person who engages in acts requiring a certificate of
 1066 registration and who fails or refuses to register is also
 1067 subject to a \$100 ~~initial~~ registration fee ~~in lieu of the \$5~~
 1068 ~~registration fee required by paragraph (a).~~ However, the
 1069 department may waive ~~the increase in~~ the registration fee if it
 1070 finds that the failure to register was due to reasonable cause
 1071 and not to willful negligence, willful neglect, or fraud.

1072 2.a. A person who willfully fails to register after the
 1073 department provides notice of the duty to register as a dealer
 1074 commits a felony of the third degree, punishable as provided in
 1075 s. 775.082, s. 775.083, or s. 775.084.

Page 43 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1076 b. The department shall provide written notice of the duty
 1077 to register to the person by personal service or by sending
 1078 notice by registered mail to the person's last known address.
 1079 The department may provide written notice by both methods
 1080 described in this sub-subparagraph.

1081 Section 22. Paragraphs (d) and (t) of subsection (1) of
 1082 section 220.03, Florida Statutes, are amended to read:

1083 220.03 Definitions.—

1084 (1) SPECIFIC TERMS.—When used in this code, and when not
 1085 otherwise distinctly expressed or manifestly incompatible with
 1086 the intent thereof, the following terms shall have the following
 1087 meanings:

1088 (d) "Community Contribution" means the grant by a business
 1089 firm of any of the following items:

1090 1. Cash or other liquid assets.

1091 2. Real property, which for purposes of this subparagraph
 1092 includes 100 percent ownership of a real property holding
 1093 company. The term "real property holding company" means a
 1094 Florida entity, such as a Florida limited liability company,
 1095 that:

1096 a. Is wholly owned by the business firm.

1097 b. Is the sole owner of real property, as defined in s.
 1098 192.001(12), located in the state.

1099 c. Is disregarded as an entity for federal income tax
 1100 purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).

Page 44 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1101 d. At the time of contribution to an eligible sponsor, has
 1102 no material assets other than the real property and any other
 1103 property that qualifies as a community contribution.

1104 3. Goods or inventory.

1105 4. Other physical resources as identified by the
 1106 department.

1107
 1108 This paragraph expires June 30, 2019 ~~2018~~.

1109 (t) "Project" means any activity undertaken by an eligible
 1110 sponsor, as defined in s. 220.183(2)(c), which is designed to
 1111 construct, improve, or substantially rehabilitate housing that
 1112 is affordable to low-income or very-low-income households as
 1113 defined in s. 420.9071(19) and (28); designed to provide housing
 1114 opportunities for persons with special needs as defined in s.
 1115 420.0004; designed to provide commercial, industrial, or public
 1116 resources and facilities; or designed to improve entrepreneurial
 1117 and job-development opportunities for low-income persons. A
 1118 project may be the investment necessary to increase access to
 1119 high-speed broadband capability in a rural community that had an
 1120 enterprise zone designated pursuant to chapter 290 as of May 1,
 1121 2015, including projects that result in improvements to
 1122 communications assets that are owned by a business. A project
 1123 may include the provision of museum educational programs and
 1124 materials that are directly related to any project approved
 1125 between January 1, 1996, and December 31, 1999, and located in

Page 45 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1126 an area that was in an enterprise zone designated pursuant to s.
 1127 290.0065 as of May 1, 2015. This paragraph does not preclude
 1128 projects that propose to construct or rehabilitate low-income or
 1129 very-low-income housing on scattered sites or housing
 1130 opportunities for persons with special needs as defined in s.
 1131 420.0004. With respect to housing, contributions may be used to
 1132 pay the following eligible project-related activities:

1133 1. Project development, impact, and management fees for
 1134 special needs, low-income, or very-low-income housing projects;
 1135 2. Down payment and closing costs for eligible persons, as
 1136 defined in s. 420.9071(19) and (28);

1137 3. Administrative costs, including housing counseling and
 1138 marketing fees, not to exceed 10 percent of the community
 1139 contribution, directly related to special needs, low-income, or
 1140 very-low-income projects; and

1141 4. Removal of liens recorded against residential property
 1142 by municipal, county, or special-district local governments when
 1143 satisfaction of the lien is a necessary precedent to the
 1144 transfer of the property to an eligible person, as defined in s.
 1145 420.9071(19) and (28), for the purpose of promoting home
 1146 ownership. Contributions for lien removal must be received from
 1147 a nonrelated third party.

1148

1149 This paragraph expires June 30, 2019 ~~2018~~.

1150 Section 23. Paragraph (c) of subsection (1) and subsection

Page 46 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1151 (5) of section 220.183, Florida Statutes, are amended to read:
 1152 220.183 Community contribution tax credit.—
 1153 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
 1154 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
 1155 SPENDING.—
 1156 (c) The total amount of tax credit which may be granted
 1157 for all programs approved under this section, s. 212.08(5)(p),
 1158 and s. 624.5105 is ~~\$18.4 million in the 2015-2016 fiscal year,~~
 1159 ~~\$21.4 million in the 2016-2017 fiscal year, and \$21.4 million~~
 1160 ~~each fiscal year in the 2017-2018 fiscal year~~ for projects that
 1161 provide housing opportunities for persons with special needs as
 1162 defined in s. 420.0004 and homeownership opportunities for low-
 1163 income households or very-low-income households as defined in s.
 1164 420.9071 and \$3.5 million each fiscal year annually for all
 1165 other projects.
 1166 (5) EXPIRATION.—The provisions of this section, except
 1167 paragraph (1)(e), expire June 30, 2019 ~~2018~~.
 1168 Section 24. Paragraph (f) of subsection (2) of section
 1169 220.1845, Florida Statutes, is amended to read:
 1170 220.1845 Contaminated site rehabilitation tax credit.—
 1171 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—
 1172 (f) The total amount of the tax credits which may be
 1173 granted under this section is \$20 ~~\$21.6~~ million in the 2017-2018
 1174 ~~2015-2016~~ fiscal year and \$10 ~~\$5~~ million annually thereafter.
 1175 Section 25. Paragraph (e) of subsection (2) of section

Page 47 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1176 220.196, Florida Statutes, is amended to read:
 1177 220.196 Research and development tax credit.—
 1178 (2) TAX CREDIT.—
 1179 (e) The combined total amount of tax credits which may be
 1180 granted to all business enterprises under this section during
 1181 any calendar year is \$9 million, except that the total amount
 1182 that may be awarded in the 2018 ~~2016~~ calendar year is \$20 ~~\$23~~
 1183 million. Applications may be filed with the department on or
 1184 after March 20 and before March 27 for qualified research
 1185 expenses incurred within the preceding calendar year. If the
 1186 total credits for all applicants exceed the maximum amount
 1187 allowed under this paragraph, the credits shall be allocated on
 1188 a prorated basis.
 1189 Section 26. Paragraph (d) of subsection (2) of section
 1190 220.222, Florida Statutes, is amended to read:
 1191 220.222 Returns; time and place for filing.—
 1192 (2)
 1193 (d) For taxable years beginning before January 1, 2026,
 1194 the 6-month time period in paragraphs (a) and (b) shall be 7
 1195 months for taxpayers with a taxable year ending June 30 ~~and~~
 1196 ~~shall be 5 months for taxpayers with a taxable year ending~~
 1197 ~~December 31~~.
 1198 Section 27. Subsection (7) of section 220.33, Florida
 1199 Statutes, is renumbered as subsection (8), and a new subsection
 1200 (7) is added to that section to read:

Page 48 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1201 220.33 Payments of estimated tax.—A taxpayer required to
 1202 file a declaration of estimated tax pursuant to s. 220.24 shall
 1203 pay such estimated tax as follows:

1204 (7) Notwithstanding any administrative rule or
 1205 determination of the department that authorizes estimated
 1206 payments otherwise due on a Saturday, Sunday, or legal holiday
 1207 to be paid on the next succeeding day that is not a Saturday,
 1208 Sunday, or legal holiday, any estimated tax payment required
 1209 under this section that would otherwise be due on the last
 1210 Saturday or Sunday of June shall be paid on or before the last
 1211 Friday of June.

1212 Section 28. Paragraph (d) is added to subsection (1) of
 1213 section 320.04, Florida Statutes, to read:

1214 320.04 Registration service charge.—

1215 (1)

1216 (d) For the convenience of citizens, a tax collector or,
 1217 in a charter county with an appointed tax collector, the county
 1218 commission, has the sole authority to enter into a contract with
 1219 a license tag agent for the operation of a branch office to
 1220 issue and renew license tag registrations and motor vehicle
 1221 titles. At the discretion of the tax collector, the contract may
 1222 include a convenience fee if the tax collector does not reduce
 1223 such services at any other tax collector branch office. The
 1224 contracted license tag agent shall pay to the department any
 1225 costs incurred by the department for the initial purchase and

Page 49 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1226 routine maintenance of any necessary equipment for such license
 1227 tag agent.

1228 Section 29. Subsection (13) of section 320.08, Florida
 1229 Statutes, is amended to read:

1230 320.08 License taxes.—Except as otherwise provided herein,
 1231 there are hereby levied and imposed annual license taxes for the
 1232 operation of motor vehicles, mopeds, motorized bicycles as
 1233 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
 1234 and mobile homes as defined in s. 320.01, which shall be paid to
 1235 and collected by the department or its agent upon the
 1236 registration or renewal of registration of the following:

1237 (13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
 1238 official license plate: \$4 flat, of which \$1 shall be deposited
 1239 into the General Revenue Fund, except that the registration or
 1240 renewal of a registration of a marine boat trailer exempt under
 1241 s. 320.102 is not subject to any license tax.

1242 Section 30. Paragraphs (i) and (j) of subsection (1) of
 1243 section 320.10, Florida Statutes, are amended, and paragraph (k)
 1244 is added to that subsection, to read:

1245 320.10 Exemptions.—

1246 (1) The provisions of s. 320.08 do not apply to:

1247 (i) Any vehicle used by any of the various search and
 1248 rescue units of the several counties for exclusive use as a
 1249 search and rescue vehicle; ~~or~~

1250 (j) Any motor vehicle used by a community transportation

Page 50 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1251 coordinator or a transportation operator as defined in part I of
 1252 chapter 427, and which is used exclusively to transport
 1253 transportation disadvantaged persons; or

1254 (k) Any marine boat trailer exempt under s. 320.102.

1255 Section 31. Section 320.102, Florida Statutes, is created
 1256 to read:

1257 320.102 Marine boat trailers owned by nonprofit
 1258 organizations; exemptions.—The registration or renewal of a
 1259 registration of any marine boat trailer owned and operated by a
 1260 nonprofit organization that is exempt from federal income tax
 1261 under s. 501(c)(3) of the Internal Revenue Code and which is
 1262 used exclusively in carrying out its customary nonprofit
 1263 activities is exempt from paying the fees, taxes, surcharges,
 1264 and charges in ss. 320.03(5), (6), and (9), 320.031(2),
 1265 320.04(1), 320.06(1)(b) and (3)(b), 320.0801, 320.0802,
 1266 320.0804, and 320.08046.

1267 Section 32. Effective upon this act becoming a law,
 1268 subsection (5) of section 336.021, Florida Statutes, is amended
 1269 to read:

1270 336.021 County transportation system; levy of ninth-cent
 1271 fuel tax on motor fuel and diesel fuel.—

1272 (5) All impositions of the tax shall be levied before
 1273 October 1 of each year to be effective January 1 of the
 1274 following year. However, levies of the tax which were in effect
 1275 on July 1, 2002, and which expire on August 31 of any year may

Page 51 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1276 be reimposed at the current authorized rate provided the tax is
 1277 levied before July 1 and is to be effective September 1 of the
 1278 year of expiration. All impositions shall be required to end on
 1279 December 31 of a year. A decision to rescind the tax shall not
 1280 take effect on any date other than December 31 and shall require
 1281 a minimum of 60 days' notice to the department of such decision.

1282 Section 33. Effective upon this act becoming a law,
 1283 paragraphs (a) and (b) of subsection (1) and paragraph (a) of
 1284 subsection (5) of section 336.025, Florida Statutes, are amended
 1285 to read:

1286 336.025 County transportation system; levy of local option
 1287 fuel tax on motor fuel and diesel fuel.—

1288 (1)(a) In addition to other taxes allowed by law, there
 1289 may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a
 1290 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option
 1291 fuel tax upon every gallon of motor fuel and diesel fuel sold in
 1292 a county and taxed under the provisions of part I or part II of
 1293 chapter 206.

1294 1. All impositions and rate changes of the tax shall be
 1295 levied before October 1 to be effective January 1 of the
 1296 following year for a period not to exceed 30 years, and the
 1297 applicable method of distribution shall be established pursuant
 1298 to subsection (3) or subsection (4). However, levies of the tax
 1299 which were in effect on July 1, 2002, and which expire on August
 1300 31 of any year may be reimposed at the current authorized rate

Page 52 of 76

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

hb7109-01-e1



HB 7109, Engrossed 1

2017

1301 provided the tax is levied before July 1 and is effective
 1302 September 1 of the year of expiration. Upon expiration, the tax
 1303 may be relevied provided that a redetermination of the method of
 1304 distribution is made as provided in this section.

1305 2. County and municipal governments shall utilize moneys
 1306 received pursuant to this paragraph only for transportation
 1307 expenditures.

1308 3. Any tax levied pursuant to this paragraph may be
 1309 extended on a majority vote of the governing body of the county.
 1310 A redetermination of the method of distribution shall be
 1311 established pursuant to subsection (3) or subsection (4), if,
 1312 after July 1, 1986, the tax is extended or the tax rate changed,
 1313 for the period of extension or for the additional tax.

1314 (b) In addition to other taxes allowed by law, there may
 1315 be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-
 1316 cent, 4-cent, or 5-cent local option fuel tax upon every gallon
 1317 of motor fuel sold in a county and taxed under the provisions of
 1318 part I of chapter 206. The tax shall be levied by an ordinance
 1319 adopted by a majority plus one vote of the membership of the
 1320 governing body of the county or by referendum.

1321 1. All impositions and rate changes of the tax shall be
 1322 levied before October 1, to be effective January 1 of the
 1323 following year. However, levies of the tax which were in effect
 1324 on July 1, 2002, and which expire on August 31 of any year may
 1325 be reimposed at the current authorized rate provided that the

Page 53 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1326 tax is levied before July 1 and is effective September 1 of the
 1327 year of expiration.

1328 2. The county may, prior to levy of the tax, establish by
 1329 interlocal agreement with one or more municipalities located
 1330 therein, representing a majority of the population of the
 1331 incorporated area within the county, a distribution formula for
 1332 dividing the entire proceeds of the tax among county government
 1333 and all eligible municipalities within the county. If no
 1334 interlocal agreement is adopted before the effective date of the
 1335 tax, tax revenues shall be distributed pursuant to the
 1336 provisions of subsection (4). If no interlocal agreement exists,
 1337 a new interlocal agreement may be established prior to June 1 of
 1338 any year pursuant to this subparagraph. However, any interlocal
 1339 agreement agreed to under this subparagraph after the initial
 1340 levy of the tax or change in the tax rate authorized in this
 1341 section shall under no circumstances materially or adversely
 1342 affect the rights of holders of outstanding bonds which are
 1343 backed by taxes authorized by this paragraph, and the amounts
 1344 distributed to the county government and each municipality shall
 1345 not be reduced below the amount necessary for the payment of
 1346 principal and interest and reserves for principal and interest
 1347 as required under the covenants of any bond resolution
 1348 outstanding on the date of establishment of the new interlocal
 1349 agreement.

1350 3. County and municipal governments shall use moneys

Page 54 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1351 received pursuant to this paragraph for transportation
 1352 expenditures needed to meet the requirements of the capital
 1353 improvements element of an adopted comprehensive plan or for
 1354 expenditures needed to meet immediate local transportation
 1355 problems and for other transportation-related expenditures that
 1356 are critical for building comprehensive roadway networks by
 1357 local governments. For purposes of this paragraph, expenditures
 1358 for the construction of new roads, the reconstruction or
 1359 resurfacing of existing paved roads, or the paving of existing
 1360 graded roads shall be deemed to increase capacity and such
 1361 projects shall be included in the capital improvements element
 1362 of an adopted comprehensive plan. Expenditures for purposes of
 1363 this paragraph shall not include routine maintenance of roads.
 1364 (5) (a) By October 1 of each year, the county shall notify
 1365 the Department of Revenue of the rate of the taxes levied
 1366 pursuant to paragraphs (1) (a) and (b), and of its decision to
 1367 rescind or change the rate of a tax, if applicable, and shall
 1368 provide the department with a certified copy of the interlocal
 1369 agreement established under subparagraph (1) (b) 2. or
 1370 subparagraph (3) (a) 1. with distribution proportions established
 1371 by such agreement or pursuant to subsection (4), if applicable.
 1372 A decision to rescind a tax may not take effect on any date
 1373 other than December 31, regardless of when the tax was
 1374 originally imposed, and requires a minimum of 60 days' notice to
 1375 the Department of Revenue of such decision.

Page 55 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1376 Section 34. Subsection (4) of section 376.30781, Florida
 1377 Statutes, is amended to read:
 1378 376.30781 Tax credits for rehabilitation of drycleaning-
 1379 solvent-contaminated sites and brownfield sites in designated
 1380 brownfield areas; application process; rulemaking authority;
 1381 revocation authority.-
 1382 (4) The Department of Environmental Protection is
 1383 responsible for allocating the tax credits provided for in s.
 1384 220.1845, which may not exceed a total of \$20 ~~\$21.6~~ million in
 1385 tax credits in the 2017-2018 ~~2015-2016~~ fiscal year and \$10 ~~\$5~~
 1386 million in tax credits annually thereafter.
 1387 Section 35. Effective January 1, 2018, subsection (2) of
 1388 section 376.70, Florida Statutes, is amended to read:
 1389 376.70 Tax on gross receipts of drycleaning facilities.-
 1390 (2) Each drycleaning facility or dry drop-off facility
 1391 imposing a charge for the drycleaning or laundering of clothing
 1392 or other fabrics is required to register with the Department of
 1393 Revenue and become licensed for the purposes of this section.
 1394 The owner or operator of the facility shall register the
 1395 facility with the Department of Revenue. Drycleaning facilities
 1396 or dry drop-off facilities operating at more than one location
 1397 are only required to have a single registration. ~~The fee for~~
 1398 ~~registration is \$30. The owner or operator of the facility shall~~
 1399 ~~pay the registration fee to the Department of Revenue. The~~
 1400 ~~department may waive the registration fee for applications~~

Page 56 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1401 ~~submitted through the department's Internet registration~~
 1402 ~~process.~~

1403 Section 36. Effective upon this act becoming a law,
 1404 subsection (2) of section 376.75, Florida Statutes, is amended
 1405 to read:

1406 376.75 Tax on production or importation of
 1407 perchloroethylene.—

1408 (2) Any person producing in, importing into, or causing to
 1409 be imported into, or selling in, this state perchloroethylene
 1410 must register with the Department of Revenue and become licensed
 1411 for the purposes of remitting the tax pursuant to, or providing
 1412 information required by, this section. Such person must register
 1413 as a seller of perchloroethylene, a user of perchloroethylene in
 1414 drycleaning facilities, or a user of perchloroethylene for
 1415 purposes other than drycleaning. Persons operating at more than
 1416 one location are only required to have a single registration.
 1417 ~~The fee for registration is \$30.~~ Failure to timely register is a
 1418 misdemeanor of the first degree, punishable as provided in s.
 1419 775.082 or s. 775.083.

1420 Section 37. Effective upon this act becoming a law,
 1421 subsection (1) of section 443.131, Florida Statutes, is amended
 1422 to read:

1423 443.131 Contributions.—

1424 (1) PAYMENT OF CONTRIBUTIONS.—Contributions accrue and are
 1425 payable by each employer for each calendar quarter he or she is

Page 57 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1426 subject to this chapter for wages paid during each calendar
 1427 quarter for employment. Contributions are due and payable by
 1428 each employer to the tax collection service provider, in
 1429 accordance with the rules adopted by the Department of Economic
 1430 Opportunity or the state agency providing tax collection
 1431 services. This subsection does not prohibit the tax collection
 1432 service provider from allowing, at the request of the employer,
 1433 employers of employees performing domestic services, as defined
 1434 in s. 443.1216(6), to pay contributions or report wages at
 1435 intervals other than quarterly when the nonquarterly payment or
 1436 reporting assists the service provider and when nonquarterly
 1437 payment and reporting is authorized under federal law. Employers
 1438 of employees performing domestic services may report wages and
 1439 pay contributions annually, with a due date of no later than
 1440 January 31 unless the 31st is a Saturday, Sunday, or holiday in
 1441 which event the due date will be the next day that is not a
 1442 Saturday, Sunday, or holiday January 1 and a delinquency date of
 1443 February 1. For purposes of this subsection, the term "holiday"
 1444 has the same meaning as set forth in s. 110.117(1) and (2) and
 1445 includes any day on which the United States Postal Service
 1446 offices are closed. To qualify for this election, the employer
 1447 must employ only employees performing domestic services, be
 1448 eligible for a variation from the standard rate computed under
 1449 subsection (3), apply to this program no later than December 1
 1450 of the preceding calendar year, and agree to provide the

Page 58 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1451 department or its tax collection service provider with any
 1452 special reports that are requested, including copies of all
 1453 federal employment tax forms. An employer who fails to timely
 1454 furnish any wage information required by the department or its
 1455 tax collection service provider loses the privilege to
 1456 participate in this program, effective the calendar quarter
 1457 immediately after the calendar quarter the failure occurred. The
 1458 employer may reapply for annual reporting when a complete
 1459 calendar year elapses after the employer's disqualification if
 1460 the employer timely furnished any requested wage information
 1461 during the period in which annual reporting was denied. An
 1462 employer may not deduct contributions, interests, penalties,
 1463 fines, or fees required under this chapter from any part of the
 1464 wages of his or her employees. A fractional part of a cent less
 1465 than one-half cent shall be disregarded from the payment of
 1466 contributions, but a fractional part of at least one-half cent
 1467 shall be increased to 1 cent.

1468 Section 38. Effective upon this act becoming a law,
 1469 paragraph (d) of subsection (1) of section 443.141, Florida
 1470 Statutes, is amended to read:

1471 443.141 Collection of contributions and reimbursements.—

1472 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
 1473 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

1474 (d) Payments for contributions.—For an annual
 1475 administrative fee not to exceed \$5, a contributing employer may

Page 59 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1476 pay its quarterly contributions due for wages paid in the first
 1477 three quarters of each year in equal installments if those
 1478 contributions are paid as follows:

1479 1. For contributions due for wages paid in the first
 1480 quarter of each year, one-fourth of the contributions due must
 1481 be paid on or before April 30, one-fourth must be paid on or
 1482 before July 31, one-fourth must be paid on or before October 31,
 1483 and one-fourth must be paid on or before December 31.

1484 2. In addition to the payments specified in subparagraph
 1485 1., for contributions due for wages paid in the second quarter
 1486 of each year, one-third of the contributions due must be paid on
 1487 or before July 31, one-third must be paid on or before October
 1488 31, and one-third must be paid on or before December 31.

1489 3. In addition to the payments specified in subparagraphs
 1490 1. and 2., for contributions due for wages paid in the third
 1491 quarter of each year, one-half of the contributions due must be
 1492 paid on or before October 31, and one-half must be paid on or
 1493 before December 31.

1494 4. If any of the due dates listed in this paragraph fall
 1495 on a Saturday, Sunday, or holiday, the due date will be the next
 1496 day that is not a Saturday, Sunday, or holiday. For purposes of
 1497 this paragraph, the term "holiday" has the same meaning as set
 1498 forth in s. 110.117(1) and (2) and includes any day on which the
 1499 United States Postal Service offices are closed.

1500 5.4- The annual administrative fee assessed for electing

Page 60 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1501 to pay under the installment method shall be collected at the
 1502 time the employer makes the first installment payment each year.
 1503 The fee shall be segregated from the payment and deposited into
 1504 the Operating Trust Fund of the Department of Revenue.

1505 6.5- Interest does not accrue on any contribution that
 1506 becomes due for wages paid in the first three quarters of each
 1507 year if the employer pays the contribution in accordance with
 1508 subparagraphs 1.-5. ~~1.-4.~~ Interest and fees continue to accrue
 1509 on prior delinquent contributions and commence accruing on all
 1510 contributions due for wages paid in the first three quarters of
 1511 each year which are not paid in accordance with subparagraphs
 1512 1.-4. ~~1.-3.~~ Penalties may be assessed in accordance with this
 1513 chapter. The contributions due for wages paid in the fourth
 1514 quarter are not affected by this paragraph and are due and
 1515 payable in accordance with this chapter.

1516 Section 39. Effective upon this act becoming a law,
 1517 section 443.163, Florida Statutes, is amended to read:

1518 443.163 Electronic reporting and remitting of
 1519 contributions and reimbursements.—

1520 (1) An employer may file any report and remit any
 1521 contributions or reimbursements required under this chapter by
 1522 electronic means. The Department of Economic Opportunity or the
 1523 state agency providing reemployment assistance tax collection
 1524 services shall adopt rules prescribing the format and
 1525 instructions necessary for electronically filing reports and

Page 61 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1526 remitting contributions and reimbursements to ensure a full
 1527 collection of contributions and reimbursements due. The
 1528 acceptable method of transfer, the method, form, and content of
 1529 the electronic means, and the method, if any, by which the
 1530 employer will be provided with an acknowledgment shall be
 1531 prescribed by the department or its tax collection service
 1532 provider. However, any employer who employed 10 or more
 1533 employees in any quarter during the preceding state fiscal year
 1534 must file the Employers Quarterly Reports ~~(UCT-6)~~ for the
 1535 current calendar year and remit the contributions and
 1536 reimbursements due by electronic means approved by the tax
 1537 collection service provider. A person who prepared and reported
 1538 for 100 or more employers in any quarter during the preceding
 1539 state fiscal year must file the Employers Quarterly Reports
 1540 ~~(UCT-6)~~ for each calendar quarter in the current calendar year,
 1541 beginning with reports due for the second calendar quarter of
 1542 2003, by electronic means approved by the tax collection service
 1543 provider.

1544 (2) (a) An employer who is required by law to file an
 1545 Employers Quarterly Report ~~(UCT-6)~~ by approved electronic means,
 1546 but who files the report by a means other than approved
 1547 electronic means, is liable for a penalty of \$50 for that report
 1548 and \$1 for each employee. This penalty is in addition to any
 1549 other penalty provided by this chapter. However, the penalty
 1550 does not apply if the tax collection service provider waives the

Page 62 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1551 electronic filing requirement in advance. An employer who fails
 1552 to remit contributions or reimbursements by approved electronic
 1553 means as required by law is liable for a penalty of \$50 for each
 1554 remittance submitted by a means other than approved electronic
 1555 means. This penalty is in addition to any other penalty provided
 1556 by this chapter.

1557 (b) A person who prepared and reported for 100 or more
 1558 employers in any quarter during the preceding state fiscal year,
 1559 but who fails to file an Employers Quarterly Report ~~(UCT-6)~~ for
 1560 each calendar quarter in the current calendar year by approved
 1561 electronic means, is liable for a penalty of \$50 for that report
 1562 and \$1 for each employee. This penalty is in addition to any
 1563 other penalty provided by this chapter. However, the penalty
 1564 does not apply if the tax collection service provider waives the
 1565 electronic filing requirement in advance.

1566 (3) The tax collection service provider may waive the
 1567 requirement to file an Employers Quarterly Report ~~(UCT-6)~~ by
 1568 electronic means for employers that are unable to comply despite
 1569 good faith efforts or due to circumstances beyond the employer's
 1570 reasonable control.

1571 (a) As prescribed by the Department of Economic
 1572 Opportunity or its tax collection service provider, grounds for
 1573 approving the waiver include, but are not limited to,
 1574 circumstances in which the employer does not:

1575 1. Currently file information or data electronically with

Page 63 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1576 any business or government agency; or

1577 2. Have a compatible computer that meets or exceeds the
 1578 standards prescribed by the department or its tax collection
 1579 service provider.

1580 (b) The tax collection service provider shall accept other
 1581 reasons for requesting a waiver from the requirement to submit
 1582 the Employers Quarterly Report ~~(UCT-6)~~ by electronic means,
 1583 including, but not limited to:

1584 1. That the employer needs additional time to program his
 1585 or her computer;

1586 2. That complying with this requirement causes the
 1587 employer financial hardship; or

1588 3. That complying with this requirement conflicts with the
 1589 employer's business procedures.

1590 (c) The department or the state agency providing
 1591 reemployment assistance tax collection services may establish by
 1592 rule the length of time a waiver is valid and may determine
 1593 whether subsequent waivers will be authorized, based on this
 1594 subsection.

1595 (4) As used in this section, the term "electronic means"
 1596 includes, but is not limited to, electronic data interchange;
 1597 electronic funds transfer; and use of the Internet, telephone,
 1598 or other technology specified by the Department of Economic
 1599 Opportunity or its tax collection service provider.

1600 (5) The tax collection service provider may waive the

Page 64 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1601 penalty imposed by this section if a written request for waiver
 1602 is filed that establishes that imposition of the penalty would
 1603 be inequitable. Examples of inequity include, but are not
 1604 limited to, situations in which the failure to electronically
 1605 file was caused by:
 1606 (a) Death or serious illness of the person responsible for
 1607 preparing and filing the report;
 1608 (b) Destruction of the business records by fire or other
 1609 casualty; or
 1610 (c) Unscheduled and unavoidable computer down time.
 1611 Section 40. Section 563.01, Florida Statutes, is amended
 1612 to read:
 1613 563.01 Definitions ~~Definition.~~— The ~~term:~~ ~~terms~~
 1614 (1) "Beer" means a brewed beverage that meets the federal
 1615 definition of beer in 27 C.F.R. s. 25.11 and contains less than
 1616 6 percent alcohol by volume. and
 1617 (2) "Malt beverage" means any ~~mean all~~ brewed beverage
 1618 beverages containing malt.
 1619
 1620 The terms "beer" and "malt beverage" have the same meaning when
 1621 either term is used in the Beverage Law. The terms do not
 1622 include alcoholic beverages that require a certificate of label
 1623 approval by the Federal Government as wine or as distilled
 1624 spirits.
 1625 Section 41. Paragraph (c) of subsection (1) and subsection

Page 65 of 76

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

hb7109-01-e1



HB 7109, Engrossed 1

2017

1626 (6) of section 624.5105, Florida Statutes, are amended to read:
 1627 624.5105 Community contribution tax credit; authorization;
 1628 limitations; eligibility and application requirements;
 1629 administration; definitions; expiration.—
 1630 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—
 1631 (c) The total amount of tax credit which may be granted
 1632 for all programs approved under this section and ss.
 1633 212.08(5)(p) and 220.183 is ~~\$18.4 million in the 2015-2016~~
 1634 ~~fiscal year, \$21.4 million in the 2016-2017 fiscal year, and~~
 1635 ~~\$21.4 million each fiscal year in the 2017-2018 fiscal year~~ for
 1636 projects that provide housing opportunities for persons with
 1637 special needs as defined in s. 420.0004 or homeownership
 1638 opportunities for low-income or very-low-income households as
 1639 defined in s. 420.9071 and \$3.5 million each fiscal year
 1640 ~~annually~~ for all other projects.
 1641 (6) EXPIRATION.—The provisions of this section, except
 1642 paragraph (1)(e), expire June 30, 2019 ~~2018~~.
 1643 Section 42. Effective upon this act becoming a law,
 1644 subsection (3) of section 733.2121, Florida Statutes, is amended
 1645 to read:
 1646 733.2121 Notice to creditors; filing of claims.—
 1647 (3)(a) The personal representative shall promptly make a
 1648 diligent search to determine the names and addresses of
 1649 creditors of the decedent who are reasonably ascertainable, even
 1650 if the claims are unmatured, contingent, or unliquidated, and

Page 66 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1651 shall promptly serve a copy of the notice on those creditors.
 1652 Impracticable and extended searches are not required. Service is
 1653 not required on any creditor who has filed a claim as provided
 1654 in this part, whose claim has been paid in full, or whose claim
 1655 is listed in a personal representative's timely filed proof of
 1656 claim.

1657 (b) The personal representative is not individually liable
 1658 to any person for giving notice under this section, even if it
 1659 is later determined that notice was not required. The service of
 1660 notice to creditors in accordance with this section shall not be
 1661 construed as admitting the validity or enforceability of a
 1662 claim.

1663 (c) If the personal representative in good faith fails to
 1664 give notice required by this section, the personal
 1665 representative is not liable to any person for the failure.
 1666 Liability, if any, for the failure is on the estate.

1667 (d) If a decedent at the time of death was 55 years of age
 1668 or older, the personal representative shall promptly serve a
 1669 copy of the notice to creditors and provide a copy of the death
 1670 certificate on the Agency for Health Care Administration within
 1671 3 months after the first publication of the notice to creditors,
 1672 unless the agency has already filed a statement of claim in the
 1673 estate proceedings.

1674 (e) The personal representative shall only serve a notice
 1675 of creditors on the Department of Revenue if the department is

Page 67 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1676 determined to be a creditor under paragraph (a) ~~if the~~
 1677 ~~Department of Revenue has not previously been served with a copy~~
 1678 ~~of the notice to creditors, then service of the inventory on the~~
 1679 ~~Department of Revenue shall be the equivalent of service of a~~
 1680 ~~copy of the notice to creditors.~~

1681 Section 43. Clothing, school supplies, personal computers,
 1682 and personal computer-related accessories; sales tax holiday.-

1683 (1) The tax levied under chapter 212, Florida Statutes,
 1684 may not be collected during the period from 12:01 a.m. on August
 1685 4, 2017, through 11:59 p.m. on August 13, 2017, on the retail
 1686 sale of:

1687 (a) Clothing, wallets, or bags, including handbags,
 1688 backpacks, fanny packs, and diaper bags, but excluding
 1689 briefcases, suitcases, and other garment bags, having a sales
 1690 price of \$100 or less per item. As used in this paragraph, the
 1691 term "clothing" means:

1692 1. Any article of wearing apparel intended to be worn on
 1693 or about the human body, excluding watches, watchbands, jewelry,
 1694 umbrellas, and handkerchiefs; and

1695 2. All footwear, excluding skis, swim fins, roller blades,
 1696 and skates.

1697 (b) School supplies having a sales price of \$15 or less
 1698 per item. As used in this paragraph, the term "school supplies"
 1699 means pens, pencils, erasers, crayons, notebooks, notebook
 1700 filler paper, legal pads, binders, lunch boxes, construction

Page 68 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1701 paper, markers, folders, poster board, composition books, poster
 1702 paper, scissors, cellophane tape, glue or paste, rulers,
 1703 computer disks, protractors, compasses, and calculators.

1704 (2) The tax levied under chapter 212, Florida Statutes,
 1705 may not be collected during the period from 12:01 a.m. on August
 1706 4, 2017, through 11:59 p.m. on August 13, 2017, on the first
 1707 \$1,000 of the sales price of personal computers or personal
 1708 computer-related accessories purchased for noncommercial home or
 1709 personal use. For purposes of this subsection, the term:

1710 (a) "Personal computers" includes electronic book readers,
 1711 laptops, desktops, handhelds, tablets, and tower computers. The
 1712 term does not include cellular telephones, video game consoles,
 1713 digital media receivers, or devices that are not primarily
 1714 designed to process data.

1715 (b) "Personal computer-related accessories" includes
 1716 keyboards, mice, personal digital assistants, monitors, other
 1717 peripheral devices, modems, routers, and nonrecreational
 1718 software, regardless of whether the accessories are used in
 1719 association with a personal computer base unit. The term does
 1720 not include furniture or systems, devices, software, or
 1721 peripherals that are designed or intended primarily for
 1722 recreational use.

1723 (c) "Monitors" does not include devices that include a
 1724 television tuner.

1725 (3) The tax exemptions provided in this section do not

Page 69 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1726 apply to sales within a theme park or entertainment complex as
 1727 defined in s. 509.013(9), Florida Statutes, within a public
 1728 lodging establishment as defined in s. 509.013(4), Florida
 1729 Statutes, or within an airport as defined in s. 330.27(2),
 1730 Florida Statutes.

1731 (4) The tax exemptions provided in this section apply at
 1732 the option of a dealer if less than 5 percent of the dealer's
 1733 gross sales of tangible personal property in the prior calendar
 1734 year are comprised of items that would be exempt under this
 1735 section. If a qualifying dealer chooses not to participate in
 1736 the tax holiday, the dealer must notify the Department of
 1737 Revenue in writing, by August 1, 2017, of its election to
 1738 collect sales tax during the holiday and must post a copy of
 1739 that notice in a conspicuous location at its place of business.

1740 (5) The Department of Revenue may, and all conditions are
 1741 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 1742 and 120.54(4), Florida Statutes, to administer this section.

1743 (6) For the 2017-2018 fiscal year, the sum of \$241,200 in
 1744 nonrecurring funds is appropriated from the General Revenue Fund
 1745 to the Department of Revenue for the purpose of implementing
 1746 this section.

1747 Section 44. Disaster preparedness supplies; sales tax
 1748 holiday.-

1749 (1) The tax levied under chapter 212, Florida Statutes,
 1750 may not be collected during the period from 12:01 a.m. on May

Page 70 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1751 27, 2017, through 11:59 p.m. on June 4, 2017, on the retail sale
 1752 of:
 1753 (a) A portable self-powered light source selling for \$20
 1754 or less.
 1755 (b) A portable self-powered radio, two-way radio, or
 1756 weatherband radio selling for \$50 or less.
 1757 (c) A tarpaulin or other flexible waterproof sheeting
 1758 selling for \$50 or less.
 1759 (d) A self-contained first-aid kit selling for \$30 or
 1760 less.
 1761 (e) A ground anchor system or tie-down kit selling for \$50
 1762 or less.
 1763 (f) A gas or diesel fuel tank selling for \$25 or less.
 1764 (g) A package of AA-cell, C-cell, D-cell, 6-volt, or 9-
 1765 volt batteries, excluding automobile and boat batteries, selling
 1766 for \$30 or less.
 1767 (h) A nonelectric food storage cooler selling for \$30 or
 1768 less.
 1769 (i) A portable generator used to provide light or
 1770 communications or preserve food in the event of a power outage
 1771 selling for \$750 or less.
 1772 (j) Reusable ice selling for \$10 or less.
 1773 (2) The Department of Revenue may, and all conditions are
 1774 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 1775 and 120.54, Florida Statutes, to administer this section.

Page 71 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1776 (3) The tax exemptions provided in this section do not
 1777 apply to sales within a theme park or entertainment complex as
 1778 defined in s. 509.013(9), Florida Statutes, within a public
 1779 lodging establishment as defined in s. 509.013(4), Florida
 1780 Statutes, or within an airport as defined in s. 330.27(2),
 1781 Florida Statutes.
 1782 (4) For the 2016-17 fiscal year, the sum of \$290,580 in
 1783 nonrecurring funds is appropriated from the General Revenue Fund
 1784 to the Department of Revenue for the purpose of implementing
 1785 this section.
 1786 (5) This section is effective upon this act becoming a
 1787 law.
 1788 Section 45. Educational textbooks and instructional
 1789 materials; sales tax exemption.-
 1790 (1) The tax levied under chapter 212, Florida Statutes,
 1791 may not be collected on the retail sale of textbooks that are
 1792 required or recommended for use in a course offered by a public
 1793 postsecondary educational institution as described in s.
 1794 1000.04, Florida Statutes, or a nonpublic postsecondary
 1795 educational institution that is eligible to participate in a
 1796 tuition assistance program authorized by s. 1009.89, Florida
 1797 Statutes, or s. 1009.891, Florida Statutes. As used in this
 1798 section, the term "textbook" means any required or recommended
 1799 manual of instruction or any instructional materials for a
 1800 course in any field of study. As used in this section, the term

Page 72 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1801 "instructional materials" means any educational materials, in
 1802 printed or digital format, that are required or recommended for
 1803 use in a course in any field of study. To demonstrate that a
 1804 sale is not subject to tax, the student must provide a physical
 1805 or an electronic copy of the following to the vendor:
 1806 (a) His or her student identification number; and
 1807 (b) An applicable course syllabus or list of required and
 1808 recommended textbooks and instructional materials that meet the
 1809 criteria in s. 1004.085(3), Florida Statutes.
 1810
 1811 The vendor must maintain proper documentation, as prescribed by
 1812 department rule, to identify the complete transaction or portion
 1813 of the transaction that involves the sale of textbooks that are
 1814 not subject to tax.
 1815 (2) The tax exemptions provided in this section do not
 1816 apply to sales within a theme park or entertainment complex as
 1817 defined in s. 509.013(9), Florida Statutes, within a public
 1818 lodging establishment as defined in s. 509.013(4), Florida
 1819 Statutes, or within an airport as defined in s. 330.27(2),
 1820 Florida Statutes.
 1821 (3) (a) The Department of Revenue may, and all conditions
 1822 are deemed met to, adopt emergency rules pursuant to ss.
 1823 120.536(1) and 120.54, Florida Statutes, to administer this
 1824 section.
 1825 (b) Notwithstanding any other provision of law, emergency

Page 73 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1826 rules adopted pursuant to paragraph (a) are effective for 6
 1827 months after adoption and may be renewed during the pendency of
 1828 procedures to adopt permanent rules addressing the subject of
 1829 the emergency rules.
 1830 (4) This section is repealed June 30, 2018.
 1831 Section 46. (1) The Department of Revenue may, and all
 1832 conditions are deemed met to, adopt emergency rules pursuant to
 1833 ss. 120.536(1) and 120.54, Florida Statutes, for the purpose of
 1834 implementing the amendments made by this act to s. 212.08(19),
 1835 Florida Statutes.
 1836 (2) Notwithstanding any other provision of law, emergency
 1837 rules adopted pursuant to subsection (1) are effective for 6
 1838 months after adoption and may be renewed during the pendency of
 1839 procedures to adopt permanent rules addressing the subject of
 1840 the emergency rules.
 1841 (3) This section is repealed January 1, 2019.
 1842 Section 47. Section 206.998, Florida Statutes, is amended
 1843 to read:
 1844 206.998 Applicability of specified sections of parts I and
 1845 II.—The provisions of ss. 206.01, 206.02, 206.025, 206.026,
 1846 206.027, 206.028, 206.03, 206.05, 206.055, 206.06, 206.07,
 1847 206.075, 206.09, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15,
 1848 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204,
 1849 206.205, 206.21, 206.215, 206.22, 206.23, 206.24, 206.25,
 1850 206.27, 206.28, ~~206.405, 206.406,~~ 206.41, 206.413, 206.43,

Page 74 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1851 206.44, 206.48, 206.485, 206.49, 206.56, 206.59, 206.606,
1852 206.608, and 206.61 of part I of this chapter and ss. 206.86,
1853 206.872, 206.874, 206.8745, 206.88, 206.90, and 206.93 of part
1854 II of this chapter shall, as far as lawful or practicable, be
1855 applicable to the tax levied and imposed and to the collection
1856 thereof as if fully set out in this part. However, any provision
1857 of any such section does not apply if it conflicts with any
1858 provision of this part.

1859 Section 48. For the 2017-2018 fiscal year, the sums of
1860 \$121,398 in recurring funds and \$11,730 in nonrecurring funds
1861 are appropriated from the Operating Trust Fund to the Department
1862 of Revenue to implement the amendments made by this act to s.
1863 212.08(19), Florida Statutes.

1864 Section 49. The amendments made by this act to s.
1865 212.08(5)(a), Florida Statutes, that exempt certain animal
1866 health products and aquaculture health products, are intended to
1867 be remedial in nature and apply retroactively, but do not
1868 provide a basis for an assessment of any tax or create a right
1869 to a refund or credit of any tax paid before the effective date
1870 of this act.

1871 Section 50. The amendments made by this act to s. 220.222,
1872 Florida Statutes, apply to taxable years beginning on or after
1873 January 1, 2016.

1874 Section 51. For the 2017-2018 fiscal year, the sum of
1875 \$149,818 in nonrecurring funds is appropriated from the General

Page 75 of 76

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hb7109-01-e1



HB 7109, Engrossed 1

2017

1876 Revenue Fund to the Department of Revenue to implement the
1877 amendments made by this act to ss. 212.08(7) and 212.031,
1878 Florida Statutes.

1879 Section 52. Except as otherwise expressly provided in this
1880 act and except for this section, which shall take effect upon
1881 this act becoming a law, this act shall take effect July 1,
1882 2017.

Page 76 of 76

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hb7109-01-e1