

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Lee, Chair
Senator Clemens, Vice Chair

MEETING DATE: Monday, March 6, 2017
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Lee, Chair; Senator Clemens, Vice Chair; Senators Bean, Brandes, Campbell, Perry, Rodriguez, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 390 Hutson (Similar H 279)	Reimbursement of Certain Taxes; Authorizing partial reimbursement of ad valorem taxes paid on homestead properties that are rendered uninhabitable from damage inflicted by a hurricane during 2016; requiring that the property owner provide documentation that the property was uninhabitable; providing for reimbursement of the state sales tax paid on the purchase of a mobile home to replace a mobile home that experienced major damage from a hurricane during 2016, etc. CA 03/06/2017 Fav/CS AFT AP	Fav/CS Yeas 7 Nays 0
2	SB 80 Steube (Compare H 163, S 246)	Public Records; Requiring a complainant to timely provide certain written notice in order to be entitled to attorney fees in certain civil actions for enforcement of ch. 119, F.S., etc. GO 02/07/2017 Favorable CA 03/06/2017 Fav/CS JU	Fav/CS Yeas 6 Nays 1
3	SB 464 Clemens (Identical H 181)	Natural Hazards; Creating an interagency workgroup to share information, coordinate ongoing efforts, and collaborate on initiatives relating to natural hazards; designating the director of the Division of Emergency Management or his or her designee as the liaison to and coordinator of the workgroup, etc. MS 02/21/2017 Favorable CA 03/06/2017 Favorable GO RC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Monday, March 6, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 428 Brandes (Identical H 353)	Local Government Participation in the Florida Retirement System; Providing that employees of a governing body of a municipality, metropolitan planning organization, or special district that applies to participate in the Florida Retirement System on or after a certain date may enroll only in the defined contribution program; authorizing enrollment in the pension plan for employees of governing bodies that have elected or applied to participate in the Florida Retirement System before a certain date, etc. CA 03/06/2017 Favorable GO AP	Favorable Yeas 5 Nays 2
5	SB 534 Perry (Identical H 599)	Public Works Projects; Prohibiting the state and political subdivisions that contract for public works projects from imposing restrictive conditions on certain contractors, subcontractors, or material suppliers or carriers; prohibiting the state and political subdivisions from restricting qualified bidders from submitting bids or being awarded contracts, etc. CA 03/06/2017 Fav/CS GO AP	Fav/CS Yeas 4 Nays 2
6	SB 422 Lee (Similar H 719)	Municipal Conversion of Independent Special Districts; Adding a minimum population standard for qualified electors of an independent special district to commence a certain municipal conversion proceeding, etc. CA 03/06/2017 Favorable EE RC	Favorable Yeas 6 Nays 0
7	Update on the Florida Construction Workforce Taskforce		Presented
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 Community Affairs

BILL: CS/SB 390

INTRODUCER: Community Affairs Committee and Senator Hutson

SUBJECT: Reimbursement of Certain Taxes

DATE: March 7, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			AFT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 390 provides for the partial reimbursement of ad valorem taxes for residential structures that were granted a homestead exemption under s. 196.031, F.S., and rendered uninhabitable as a result of damage from a hurricane or tornado during 2016. The bill appropriates \$4 million for these reimbursements.

The bill also provides for the reimbursement of state sales taxes paid to replace mobile homes damaged by a hurricane or tornado during 2016 in certain circumstances. If a mobile home is purchased to replace a mobile home that experienced major damage, and the mobile home was the permanent residence of a permanent resident of Florida, the state sales tax paid on the purchase of the replacement mobile home shall be reimbursed to the mobile home owner. The bill appropriates \$2 million for these reimbursements. A person who receives the ad valorem tax reimbursement for residential structures that were granted a homestead exemption is not eligible to receive the state sales tax reimbursement for mobile homes.

The reimbursements for ad valorem taxes and state sales taxes may not exceed \$1,500.

The bill also creates criminal penalties for a person who knowingly and willfully gives false information for the purpose of claiming reimbursement.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

Ad Valorem Process

Each property appraiser must complete an assessment of the value of all property⁶ within the appraiser’s jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue (DOR or department).⁷ The taxable value of a residential parcel includes both the value of structures and other improvements on the parcel and the value of the land on which those structures and improvement sit.⁸ The property appraiser also ensures that all real property is listed on the real property assessment roll.⁹

The assessment roll must be submitted to DOR by July 1 of the assessment year to determine if the rolls meet all the appropriate requirements of law relating to form and just value.¹⁰

Assessment rolls include, in addition to taxable value, other information on the property located

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art. VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ For purposes of clarity and administration of the tax credit, the bill distinguishes between a “residential parcel” and “residential improvement,” avoiding the broad term “property.” For appraisal purposes, a “residential parcel” includes the land and improvements. For readability, this analysis will use the broader term “property” unless the context requires otherwise.

⁷ Section 193.023(1), F.S.

⁸ See *The Appraisal Process and Your Taxes*, Hillsborough County Property Appraiser, available at <http://www.hcpafl.org/Property-Info/The-Appraisal-Process-Your-Taxes> (last visited Feb. 27, 2017) (process for calculating property tax values).

⁹ Section 193.085(1), F.S.

¹⁰ Section 193.1142(1)(a), F.S.

within the property appraiser's jurisdiction, such as just value, assessed value, and the amount of each exemption or discount.¹¹

The taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate (i.e., tax rate) that is levied on each property's taxable value.¹² Within 35 days of certification of the taxable value by the property appraiser (typically by August 4 of the assessment year), the taxing authority must advise the property appraiser of its proposed millage rates.¹³ The property appraiser uses the proposed millage rates provided by the taxing authorities to prepare the notice of proposed property taxes, commonly referred to as the Truth in Millage (TRIM) notice.¹⁴

Any property owner who disagrees with the assessment in the TRIM notice or who was denied an exemption or property classification may request an informal meeting with the property appraiser,¹⁵ appeal to the county value adjustment board (VAB),¹⁶ or challenge the assessment in circuit court.¹⁷

After challenges to assessed value of the property have concluded, the VAB submits the VAB-adjusted assessment roll to the property appraiser¹⁸ and to the DOR.¹⁹ After making any adjustments to the assessment rolls caused by the VAB hearings, the property appraiser will certify the tax roll to the tax collector (typically before November 1 of the assessment year or as soon thereafter as the tax collector receives the certified tax roll).²⁰

The tax collector will then send tax bills within twenty working days to the owners of all properties owing tax within his or her jurisdiction.²¹ Property taxes are due once a year, and can be paid beginning November 1 of the assessment year.²² Generally, taxes become delinquent if not paid in full as of April 1 of the year after assessment.²³ Delinquent taxes will accrue interest until paid,²⁴ and may accrue penalties in certain circumstances.²⁵

Overview of the Value Adjustment Board Process

Chapter 194, F.S., provides for administrative and judicial review of ad valorem tax assessments. Each county in Florida has a VAB composed of five members²⁶ that hears petitions pertaining to

¹¹ Section 193.114, F.S.

¹² Section 200.065(2)(a)1., F.S.

¹³ Section 200.065(2)(b), F.S.

¹⁴ Section 200.069, F.S.

¹⁵ Section 194.011(2), F.S.

¹⁶ Section 194.011(3), F.S.

¹⁷ Section 194.171, F.S.

¹⁸ Section 193.122(2), F.S.

¹⁹ Section 193.122(1), F.S.

²⁰ Section 193.122(2), F.S.

²¹ Section 197.322(2), (3), F.S.

²² Section 197.333, F.S.

²³ *Id.*

²⁴ Section 197.152, F.S.

²⁵ See s. 196.161, F.S. (penalties for properties granted homestead exemption when homeowner was no a permanent resident).

²⁶ Section 194.015, F.S.

property assessments made by the county property appraiser.²⁷ The VAB hears evidence from both the petitioner and property appraiser as to whether a property is appraised at its fair market value, as well as issues related to tax exemptions, deferments, and portability.²⁸

The property owner may initiate a review by filing a petition with the clerk of the VAB.²⁹ A petitioner before the VAB may be represented by an attorney or agent.³⁰

Each county has a VAB, comprised of two members of the governing body of the county, one member of the school board and two citizen members appointed by the governing body of the county.³¹ The county clerk acts as the clerk of the VAB.³² A property owner may initiate a review by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.³³ The clerk of the VAB is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling hearings.

Current law requires VABs to render a written decision within 20 calendar days after the last day the board is in session.³⁴ The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.³⁵ If a special magistrate has been appointed, the VAB must consider the recommendations of the special magistrate.³⁶ The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB. If requested by the DOR, the clerk must provide to the DOR a copy of the decision or information relating to the tax impact of the findings and results of the board as described in s. 194.037, F.S., in the manner and form requested.

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.³⁷ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

²⁷ Section 194.011, F.S. The VAB also hears complaints about homestead exemptions and appeals exemption, deferral, or classification decisions. Section 194.032(1)(a), F.S.

²⁸ Additionally, VABs appoint special magistrates, who are qualified real estate appraisers, personal property appraisers or attorneys, to act as impartial agents in conducting hearings and making recommendations on all petitions. Section 194.035(1), F.S.

²⁹ Section 194.011(3)(b), F.S.

³⁰ Section 194.034(1)(a), F.S.

³¹ Section 194.015, F.S.

³² *Id.*

³³ Section 194.011(3)(d), F.S.

³⁴ Section 194.034(2), F.S.

³⁵ *Id.*; See also Rules 12D-9.030, 12D-9.032, and 12D-10.003(3), F.A.C.

³⁶ Section 194.034(2), F.S.

³⁷ FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

Sales Tax

Florida's sales and use tax is a 6 percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, commercial real estate rentals, and motor vehicles, unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (77.0 percent for FY 2015-2016³⁸) and, it is administered by the DOR under ch. 212, F.S.

Tax Relief for Natural Disasters

The Legislature has provided tax relief for the victims of natural disasters on at least four occasions.³⁹

For example, ch. 88-101, Laws of Fla., created s. 196.295(3), F.S., providing an abatement of taxes for properties damaged by windstorms or tornadoes.⁴⁰ Chapter 98-185, Laws of Fla., also provided for the partial abatement of property taxes for properties destroyed or damaged by a tornado.

Chapter 2004-74 provided reimbursement for ad valorem taxes levied on residential property that was granted a homestead exemption under s. 196.031, F.S., and rendered uninhabitable due to a named tropical system in 2004.⁴¹ To receive the reimbursement, the property owner was required to file an application with the property appraiser by March 1, 2005. After making a determination on the validity of the application, the Legislature directed the property appraiser to calculate the reimbursement. The property appraiser totaled the number of the days the property was uninhabitable due to the damage or destruction; multiplied such number by the ad valorem taxes levied on the homestead property for that year; and divided the number by 366 to calculate the reimbursement. The property appraiser would then send a list of property owners entitled to a partial reimbursement to the DOR. The bill also provided procedures for reimbursement, an appeals process to the VABs, and penalties for any person who knowingly and willfully gave false information for the purpose of claiming reimbursement. The reimbursement was limited to \$1,500. The Legislature provided a similar procedure for the reimbursement of state sales tax paid on replacement mobile homes.⁴²

Similarly, ch. 2007-106, Laws of Fla., provided reimbursement of ad valorem taxes levied on residential property rendered uninhabitable due to tornadoes and reimbursement for sales taxes paid on mobile homes purchased to replace mobile homes damaged by a tornado.

³⁸ Florida Revenue Estimating Conference, 2016 Florida Tax Handbook, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2016.pdf> (last visited Feb. 27, 2017).

³⁹ Chapters 88-101, 98-185, 2004-474, and 2007-106, Laws of Fla.

⁴⁰ Section 196.295(3), F.S. repealed by ch. 92-173, s. 8, Laws of Fla.

⁴¹ Chapter 2004-74, s. 1, Laws of Fla., available at <http://laws.flrules.org/2004/474> (last visited Feb. 27, 2017).

⁴² *Id.* at s. 6

III. Effect of Proposed Changes:

Section 1 provides for the partial reimbursement of ad valorem taxes for residential structures that were granted a homestead exemption under s. 196.031, F.S., and rendered uninhabitable as a result of damage from a hurricane or tornado during 2016. The term “uninhabitable” means a residential structure that cannot be used for 60 days or more for the purpose for which it was constructed due to damage from a 2016 hurricane or tornado.

If a property owner continues to live in an uninhabitable structure because alternative living quarters are unavailable, the owner is eligible for a partial reimbursement.

In order to be eligible for a reimbursement, the owner must file a notarized application on or before March 1, 2018, with the property appraiser. Failure to file an application by this date constitutes a waiver of any claim for reimbursement. The application must be filed in the manner and form prescribed by the property appraiser and must identify the uninhabitable structure, the date the damage occurred, and the number of days the property was uninhabitable.

Documentation supporting the claim that the property was uninhabitable must accompany the application. Documentation may include utility bills, insurance information, contractors’ statements, building permit applications, and building code inspections or certificates of occupancy.

The property appraiser must review the documentation and determine whether the owner is entitled to a partial reimbursement. If the property appraiser determines that the owner is entitled to reimbursement, the property appraiser must calculate the reimbursement amount using the following formula: an amount equal to the total ad valorem taxes paid on the homestead property for the 2016 tax year, multiplied by a ratio equal to the number of days the property was uninhabitable after the damage during 2016, and divided by 366. However, the amount of reimbursement may not exceed \$1,500.

The property appraiser must compile a list of property owners entitled to the reimbursement and specify the amount each property owner shall receive. The list must be submitted to the DOR by April 1, 2018, through an online application provided by the department.

The property appraiser must notify the property owner by mail if the property owner is not entitled to receive the reimbursement by April 1, 2018. If a property owner’s application for reimbursement is not fully granted, the owner may file a petition with the VAB for review of that decision within 30 days after the mailing of the notice by the property appraiser.

The VAB must review the petitions as expeditiously as possible at the same time it is considering denials of homestead exemptions pursuant to ss. 194.032 and 196.151, F.S.

By May 10, 2018, the property appraiser must notify the DOR of the total dollar amounts of reimbursements denied for which petitions with the VAB have been filed.

After receiving the reimbursement lists from the property appraisers, but before dispersing any reimbursement checks, the DOR must set aside a dollar amount equal to the total amount of money requested in petitions that were filed with the VABs, or \$700,000, whichever is less.

After the set aside, the department must calculate the total dollar value of all approved reimbursement requests submitted by the property appraisers and distribute reimbursement checks to property owners whose applications for reimbursement were approved by the property appraiser. If the total amount of reimbursements requested exceeds the amount available for that purpose, the department must reduce all reimbursement checks by a percentage sufficient to reduce the total reimbursement payments to an amount equal to the appropriation, less any amount retained to pay for requests made in petitions that were filed with the VABs.

The retained amount set aside must be used to pay claims that the property appraiser denied but which the VABs granted. The DOR may not pay claims for reimbursement from this set aside until all appeals to the VABs are final. If the department reduced the reimbursements made to owners who did not require an appeal to the VABs, reimbursements granted by the VABs shall be reduced by the same percentage. If the total adjusted reimbursements approved by the VABs exceed the amount retained by the DOR for paying these reimbursements, the department shall further reduce these reimbursement checks by a percentage sufficient to reduce total reimbursement payments to an amount equal to the amount retained.

The DOR shall disburse reimbursement checks from its Administrative Trust Fund and shall forward all undeliverable reimbursement checks to the certifying property appraiser for subsequent delivery attempts.

The bill also creates criminal penalties for a person who knowingly and willfully gives false information for the purpose of claiming reimbursement. Such person commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or by a fine not exceeding \$5,000, or both.

Section 2 provides for the reimbursement of state sales taxes paid to replace mobile homes damaged by a hurricane or tornado during 2016 in certain circumstances. If a mobile home is purchased to replace a mobile home that experienced major damage, and the mobile home was the permanent resident of a permanent resident of Florida, the state sales tax paid on the purchase of the replacement mobile home must be reimbursed.

For the purposes of this section:

- “Major damage” means a mobile home that, as a result of damage from a hurricane or tornado during 2016, is more than 50 percent destroyed and cannot be repaired or made habitable for less than the amount of its value before the 2016 hurricane or tornado.
- “Mobile home” means a mobile home as defined in s. 320.01(2)(a), F.S., a manufactured home as defined in s. 320.01(2)(b), F.S., or a trailer as defined in s. 320.08(10), F.S.
- “Permanent residence” and “permanent resident” have the same meanings as in s. 196.012, F.S.⁴³

⁴³ Section 196.012(17) defines “permanent residence” as the place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she had the intention of returning. A person may have only one permanent resident at a time; and, once a permanent residence is established in a foreign estate or country, it is presumed to continue until the person shows that a change has occurred.

In order to be eligible for reimbursement, the mobile home owner must file a notarized application with the property appraiser, in the form and manner prescribed by him or her, on or before May 1, 2018, in the county in which the damaged home was located. Failure to file an application by this time constitutes waiver of any claim for reimbursement.

The application must identify the mobile home that experienced the damage and the date the damage occurred. The mobile home owner must include documentation attesting to major damage of the mobile home, a copy of the invoice for the replacement mobile home, and a copy of the invoice for the installation of the replacement mobile home in Florida. Documentation may include insurance information, information from the Federal Emergency Management Agency, and information from the American Red Cross.

After receiving the application, the property appraiser must investigate the documentation to verify that the mobile home experienced major damage and must calculate the reimbursement amount. The amount shall be equal to the state sales tax paid on the purchase price of the replacement mobile home. However, the amount of reimbursement may not exceed \$1,500 for any individual mobile home.

The property appraiser must compile a list of owners entitled to reimbursement and submit the list to the DOR by June 1, 2018, through an online application provided by the department.

If the property appraiser determines that the owner is not entitled to receive the reimbursement, he or she shall notify the mobile home owner by mail on or before June 1, 2018. The owner may file a petition for review with the VAB. The owner must file the petition within 30 days after the mailing of the notice by the property appraiser. The VAB must consider these petitions as quickly as possible at the same time the board considers denials of homestead exemptions pursuant to ss. 194.032 and 196.151, F.S.

The property appraiser must notify the DOR of the total number of applications that he or she denied but for which owners filed petitions with the VAB by July 10, 2018. The department shall determine the total dollar amount of all petitions, which owners filed with the VABs.

After receiving the reimbursements list from the property appraisers, but before disbursing any reimbursement checks, the department must set aside a dollar amount equal to the total amount requested in the petitions that were filed the VAB, or \$500,000, whichever is less. The department must then calculate the total value of all approved reimbursement requests submitted by the property appraisers and distribute checks to owners whose applications were granted by the property appraiser. If the total amount of reimbursements requested exceeds the amount available for that purpose, the department shall reduce all reimbursement checks by a percentage sufficient to reduce total reimbursement payments to an amount equal to the appropriation, less any amount retained to pay for requests made in petitions that were filed with the VABs.

The retained amount set aside must be used to pay those claims that were denied by the property appraiser but which the VABs granted. The department may not pay any claims from this retained amount until all appeals to the VABs are final. If the department reduced the reimbursements made to owners who did not require an appeal to the VABs, reimbursements granted by the VABs shall be reduced by the same percentage. If the total adjustment

reimbursements approved by the department exceed the amount retained by the department for paying these reimbursements, the department must further reduce all reimbursement checks by a percentage sufficient to an amount equal to the amount retained.

The department shall disburse reimbursement checks from its Administrative Trust Fund to the appropriate persons and shall forward all undeliverable reimbursement checks to the certifying property appraiser for subsequent delivery attempts.

A person who receives ad valorem reimbursement is not eligible for state sales tax reimbursement.

A person who knowingly and willfully gives false information for claiming reimbursement commits a misdemeanor of the first degree, punishable as provided s. 775.082, F.S., or by a fine not exceeding \$5,000, or both.

Section 3 appropriates \$4 million from the General Revenue Fund to the Administrative Trust Fund of the DOR for purposes of providing reimbursements under section 1.

Section 4 appropriates \$2 million from the General Revenue Fund to the Administrative Trust Fund of the DOR for purposes of providing state sales tax reimbursements under section 2.

Section 5 appropriates \$60,000 from the General Revenue Fund to the Administrative Trust Fund to the DOR for purposes of administering this act.

Section 6 requires the Executive Office of the Governor to certify forward all unexpected funds appropriated pursuant to this act on July 1 in accordance with s. 216.351, F.S., and notwithstanding s. 216.301, F.S.

Section 7 provides that it is the intent of the Legislature that payments made to residents under this act be considered disaster-relief assistance within the meaning of s. 139 of the Internal Revenue Code.

Section 8 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:

Homeowners who experienced damage to their homestead property due to a hurricane or tornado in 2016 may receive a partial reimbursement of ad valorem taxes. Mobile homeowners who replaced their mobile home due to a hurricane or tornado in 2016 may receive a sales tax reimbursement for the purchase of their new mobile home.

C. Government Sector Impact:

The bill requires the DOR to establish an online application for property appraisers to use when submitting information about approved or protested applications.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In its analysis of the bill, the DOR recommends various technical and clarifying changes.⁴⁴ The recommended changes include requiring the property appraiser to notify the DOR of the dollar amounts requested for pending appeals and approved applicants; revising the date by which the property appraiser shall submit the reimbursement list from Sunday April 1, 2018, to Monday, April 2, 2018; and setting dates by which the VABs must complete the review of all petitions.⁴⁵ The DOR also notes that there is no requirement that the individual receiving the reimbursement is the same individual who originally paid the property or sales tax.⁴⁶

VIII. Statutes Affected:

This bill does not amend the Florida Statutes. Time-limited provisions such as those found in this act are published only in the Laws of Florida.

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 Committee on March 6, 2017:

Expands the eligibility for ad valorem taxation and sales tax reimbursements to include properties that suffered damage from a tornado during 2016.

⁴⁴ Department of Revenue, *Senate Bill 390 Legislative Bill Analysis*, p. 6, (Feb. 13, 2017).

⁴⁵ *Id.*

⁴⁶ *Id.* at 7.

B. Amendments:

None.

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



264586

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 58

and insert:

hurricane or tornado during 2016.-

Delete line 62

and insert:

result of damage from a hurricane or tornado during 2016.

However, if a

Delete line 70



264586

11 and insert:
12 hurricane or tornado during 2016, the ad valorem taxes paid for
13 that

14 Delete line 161

15 and insert:
16 mobile homes damaged by a hurricane or tornado during 2016.-

17 Delete line 164

18 and insert:
19 result of damage from a hurricane or tornado during 2016, is
20 more than 50

21 Delete line 166

22 and insert:
23 less than the amount of its value before the hurricane or
24 tornado during

25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete line 6

29 and insert:
30 inflicted by a hurricane or tornado during 2016;
31 requiring that

32 Delete line 33

33 and insert:
34 major damage from a hurricane or tornado during 2016;
35 requiring

By Senator Hutson

7-00480A-17

2017390__

1 A bill to be entitled
2 An act relating to reimbursement of certain taxes;
3 providing definitions; authorizing partial
4 reimbursement of ad valorem taxes paid on homestead
5 properties that are rendered uninhabitable from damage
6 inflicted by a hurricane during 2016; requiring that
7 application for such reimbursement be made with the
8 property appraiser by a specified date; providing
9 application requirements; requiring that the property
10 owner provide documentation that the property was
11 uninhabitable; requiring each property appraiser to
12 determine an owner's entitlement to reimbursement and
13 the reimbursement amount using a specified formula;
14 limiting the reimbursement amount; authorizing an
15 owner to file a petition with the value adjustment
16 board if the application for reimbursement is not
17 fully granted; requiring property appraisers to submit
18 reimbursement lists to the Department of Revenue by a
19 specified date; requiring that the department retain
20 funds for the purpose of paying claims that are
21 subsequently granted by a value adjustment board;
22 requiring the department to determine the total
23 reimbursement payments and to disburse checks from a
24 specified trust fund; prohibiting knowingly and
25 willingly giving false information for the purpose of
26 claiming reimbursement; providing a criminal penalty;
27 requiring that undeliverable reimbursement checks be
28 forwarded to the certifying property appraiser;
29 providing appropriations; providing for certifying
30 forward unexpended funds; providing for reimbursement
31 of the state sales tax paid on the purchase of a
32 mobile home to replace a mobile home that experienced

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2017390__

major damage from a hurricane during 2016; requiring that application for such reimbursement be made with the property appraiser; providing application requirements; requiring that the owner provide documentation of damage to the mobile home; requiring each property appraiser to determine an owner's entitlement to reimbursement; requiring the department to calculate reimbursement amounts; limiting the reimbursement amount; requiring property appraisers to submit reimbursement lists to the department by a specified date; authorizing an owner to file a petition with the value adjustment board if the application for reimbursement is not fully granted; requiring that the department retain funds for the purpose of paying claims that are subsequently granted by a value adjustment board; requiring the department to determine the total reimbursement payments; providing a criminal penalty for a specified prohibited act; providing an appropriation; providing legislative intent; providing an effective date.

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

Section 1. Partial reimbursement for ad valorem taxes paid on residential property rendered uninhabitable due to a hurricane during 2016.-

(1) As used in this section, the term "uninhabitable" means a residential structure that cannot be used for a period of 60 days or more for the purpose for which it was constructed as a

7-00480A-17

2017390__

62 result of damage from a hurricane during 2016. However, if a
63 property owner lives in an uninhabitable structure because
64 alternative living quarters are unavailable, the owner is
65 eligible for a partial reimbursement as provided in this
66 section.

67 (2) (a) If a residential structure has been granted a
68 homestead exemption under s. 196.031, Florida Statutes, and the
69 structure is rendered uninhabitable as a result of damage from a
70 hurricane during 2016, the ad valorem taxes paid for that
71 residential structure for the 2016 tax year shall be partially
72 reimbursed as set forth in this section.

73 (b) An owner must file a notarized application on or before
74 March 1, 2018, with the property appraiser of the county in
75 which the uninhabitable structure is located. Failure to file
76 such application on or before March 1, 2018, constitutes a
77 waiver of any claim for reimbursement under this section. The
78 application must be filed in the manner and form prescribed by
79 the property appraiser and must, at a minimum, identify the
80 uninhabitable structure, the date the damage occurred, and the
81 number of days the property was uninhabitable. Documentation
82 supporting the claim that the property was uninhabitable must
83 accompany the application. Such documentation may include
84 utility bills, insurance information, contractors' statements,
85 building permit applications, and building code inspections or
86 certificates of occupancy.

87 (3) (a) Upon receipt of the application, the property
88 appraiser shall review the documentation contained therein to
89 determine whether the owner is entitled to a partial
90 reimbursement under this section. If the property appraiser

7-00480A-17

2017390__

determines that the owner is entitled to reimbursement, the property appraiser must calculate the reimbursement amount. The reimbursement shall be an amount equal to the total ad valorem taxes paid on the homestead property for the 2016 tax year, multiplied by a ratio equal to the number of days the property was uninhabitable after the damage occurred during 2016 divided by 366. However, the amount of reimbursement may not exceed \$1,500.

(b) The property appraiser shall compile a list of property owners entitled to a partial reimbursement and shall specify the amount each property owner shall receive. The list shall be submitted to the Department of Revenue by April 1, 2018, through an online application provided by the department.

(4) (a) The property appraiser shall notify an owner by mail if the property appraiser determines that the owner is not entitled to receive the reimbursement for which the owner applied. Such notification must be made on or before April 1, 2018. If an owner's application for reimbursement is not fully granted, the owner may file a petition with the value adjustment board for review of that decision. The petition must be filed with the value adjustment board within 30 days after the mailing of the notice by the property appraiser.

(b) The value adjustment board must review the petitions as expeditiously as possible at the same time the board is considering denials of homestead exemptions pursuant to ss. 194.032 and 196.151, Florida Statutes.

(c) By May 10, 2018, the property appraiser shall notify the department of the total dollar amount of reimbursements denied for which petitions with the value adjustment board have

7-00480A-17

2017390__

120 been filed.

121 (5) (a) Upon receipt of the reimbursement lists from the
122 property appraisers, but before disbursing any reimbursement
123 checks, the department shall set aside a dollar amount equal to
124 the total amount of money requested in petitions that were filed
125 with value adjustment boards, or \$700,000, whichever is less.
126 Thereafter, the department shall calculate the total dollar
127 value of all approved reimbursement requests submitted by the
128 property appraisers and shall distribute reimbursement checks in
129 accordance with paragraph (3) (a) to property owners whose
130 applications for reimbursement were approved by the property
131 appraiser. If the total amount of reimbursements requested
132 exceeds the amount available for that purpose, the department
133 shall reduce all reimbursement checks by a percentage sufficient
134 to reduce total reimbursement payments to an amount equal to the
135 appropriation, less any amount retained to pay for requests made
136 in petitions that were filed with value adjustment boards.

137 (b) The retained amount set aside pursuant to paragraph (a)
138 shall be used to pay claims that the property appraiser denied
139 but which the value adjustment boards granted. The department
140 may not pay claims for reimbursement from this retained amount
141 until all appeals to the value adjustment boards are final. If
142 reimbursements made under paragraph (a) were reduced by the
143 department, reimbursements granted by the value adjustment
144 boards shall be reduced by the same percentage. If the total
145 adjusted reimbursements approved by the value adjustment boards
146 exceed the amount retained by the department for paying these
147 reimbursements, the department shall reduce these reimbursement
148 checks by a percentage sufficient to reduce total reimbursement

7-00480A-17

2017390__

149 payments to an amount equal to the amount retained.

150 (c) The department shall disburse reimbursement checks from
151 its Administrative Trust Fund to the persons indicated in the
152 reimbursement lists and shall forward all undeliverable
153 reimbursement checks to the certifying property appraiser for
154 subsequent delivery attempts.

155 (6) A person who knowingly and willfully gives false
156 information for the purpose of claiming reimbursement under this
157 section commits a misdemeanor of the first degree, punishable as
158 provided in s. 775.082, Florida Statutes, or by a fine not
159 exceeding \$5,000, or both.

160 Section 2. Reimbursement for sales taxes paid to replace
161 mobile homes damaged by a hurricane during 2016.—

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

163 (a) "Major damage" means that a mobile home that, as a
164 result of damage from a hurricane during 2016, is more than 50
165 percent destroyed and cannot be repaired or made habitable for
166 less than the amount of its value before the hurricane during
167 2016.

168 (b) "Mobile home" means a mobile home as defined in s.
169 320.01(2)(a), Florida Statutes, a manufactured home as defined
170 in s. 320.01(2)(b), Florida Statutes, or a trailer as defined in
171 s. 320.08(10), Florida Statutes.

172 (c) "Permanent residence" and "permanent resident" have the
173 same meanings as provided in s. 196.012, Florida Statutes.

174 (2) If a mobile home is purchased to replace a mobile home
175 that experienced major damage and the mobile home was the
176 permanent residence of a permanent resident of this state, the
177 state sales tax paid on the purchase of the replacement mobile

7-00480A-17

2017390__

home shall be reimbursed in the following manner:

(a) A notarized application must be filed on or before May 1, 2018, by the owner with the property appraiser of the county in which the damaged mobile home was located. Failure to file such application on or before May 1, 2018, constitutes a waiver of any claim for reimbursement under this section. The application must be filed in the manner and form prescribed by the property appraiser.

(b) The application must identify the mobile home that experienced major damage and the date the damage occurred. Documentation attesting to major damage of the mobile home, a copy of the invoice for the replacement mobile home, and a copy of the invoice for the installation of the replacement mobile home in the state must accompany the application. Documentation attesting to the major damage may include insurance information, information from the Federal Emergency Management Agency, and information from the American Red Cross.

(3) Upon receipt of the application, the property appraiser shall investigate the documentation contained therein to verify the mobile home experienced major damage and shall calculate the reimbursement amount by calculating an amount equal to the state sales tax paid on the purchase price of the replacement mobile home, as determined by the tax tables of the Department of Revenue. However, the amount of reimbursement may not exceed \$1,500 for any individual mobile home. The property appraiser shall compile a list of owners entitled to reimbursement and shall submit the reimbursement list to the Department of Revenue by June 1, 2018, through an online application provided by the department.

7-00480A-17

2017390__

207 (4) (a) The property appraiser shall notify the owner by
208 mail if the property appraiser determines that the owner is not
209 entitled to receive the reimbursement that he or she applied for
210 under this section. Such notification must be made on or before
211 June 1, 2018. The owner may file a petition with the value
212 adjustment board for review of that decision. The petition must
213 be filed with the value adjustment board within 30 days after
214 the mailing of the notice by the property appraiser.

215 (b) The value adjustment board shall consider these
216 petitions as expeditiously as possible at the same time the
217 board considers denials of homestead exemptions pursuant to ss.
218 194.032 and 196.151, Florida Statutes.

219 (c) By July 10, 2018, the property appraiser shall notify
220 the department of the total number of applications which were
221 denied but for which petitions with the value adjustment board
222 have been filed. The department shall determine the total dollar
223 value of all petitions which were filed with the value
224 adjustment boards.

225 (5) (a) Upon receipt of the reimbursement lists from the
226 property appraisers, but before disbursing any reimbursement
227 checks, the department shall set aside a dollar amount equal to
228 the total amount of money requested in the petitions that were
229 filed with the value adjustment boards, or \$500,000, whichever
230 is less. Thereafter, the department shall calculate the total
231 dollar value of all approved reimbursement requests submitted by
232 the property appraisers and shall distribute reimbursement
233 checks in accordance with the provisions of subsection (3) to
234 owners whose applications for reimbursement were granted by the
235 property appraiser. If the total amount of reimbursements

7-00480A-17

2017390__

requested exceeds the amount available for that purpose, the department shall reduce all reimbursement checks by a percentage sufficient to reduce total reimbursement payments to an amount equal to the appropriation, less any amount retained to pay for requests made in petitions that were filed with value adjustment boards.

(b) The retained amount set aside under paragraph (a) shall be used to pay those claims that were denied by the property appraiser but which the value adjustment boards granted. The department may not pay claims for reimbursement from this retained amount until all appeals to the value adjustment boards are final. If reimbursements made under paragraph (a) were reduced by the department, reimbursements granted by the value adjustment boards shall be reduced by the same percentage. If the total adjusted reimbursements approved by the value adjustment boards exceed the amount retained by the department for paying these reimbursements, the department shall further reduce all reimbursement checks by a percentage sufficient to reduce these reimbursement payments to an amount equal to the amount retained.

(c) The department shall disburse reimbursement checks from its Administrative Trust Fund to the persons indicated in the reimbursement lists and shall forward all undeliverable reimbursement checks to the certifying property appraiser for subsequent delivery attempts.

(6) A person who receives reimbursement under section 1 is not eligible for the reimbursement provided by this section.

(7) A person who knowingly and willfully gives false information for the purpose of claiming reimbursement under this

7-00480A-17

2017390__

section commits a misdemeanor of the first degree, punishable as provided in s. 775.082, Florida Statutes, or by a fine not exceeding \$5,000, or both.

Section 3. The sum of \$4 million is appropriated from the General Revenue Fund to the Administrative Trust Fund of the Department of Revenue for purposes of providing reimbursements under section 1 of this act.

Section 4. The sum of \$2 million is appropriated from the General Revenue Fund to the Administrative Trust Fund of the Department of Revenue for purposes of providing state sales tax reimbursements under section 2 of this act.

Section 5. The sum of \$60,000 is appropriated from the General Revenue Fund to the Administrative Trust Fund of the Department of Revenue for purposes of administering this act.

Section 6. Notwithstanding the provisions of s. 216.301, Florida Statutes, to the contrary and in accordance with s. 216.351, Florida Statutes, the Executive Office of the Governor shall, on July 1, certify forward all unexpended funds appropriated pursuant to this act.

Section 7. It is the intent of the Legislature that payments made to residents under this act be considered disaster-relief assistance within the meaning of s. 139 of the Internal Revenue Code.

Section 8. This act shall take effect July 1, 2017.



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: February 14, 2017

I respectfully request that **Senate Bill #390**, relating to Reimbursement of Certain Taxes, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Travis Hutson", is written above a horizontal line.

Senator Travis Hutson
Florida Senate, District 7

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 390
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, March 6, 2017
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 80

INTRODUCER: Community Affairs Committee and Senator Steube

SUBJECT: Public Records

DATE: March 7, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kim	Ferrin	GO	Favorable
2.	Cochran	Yeatman	CA	Fav/CS
3.			JU	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 80 grants discretion to a court to award attorney fees and costs relating to public records enforcement actions when it has determined that a public records request was unlawfully refused and that the plaintiff provided written notice of the public records request to the agency's custodian of public records at least 5 business days before filing the lawsuit. The bill also provides guidance to the court when determining whether a public record was unlawfully refused for inspection. Additionally, the bill provides that attorney fees may be awarded against a complainant if the court finds the action was filed in bad faith or was frivolous. Finally, the bill adds that if a complainant can show by a preponderance of the evidence that an agency intentionally or willfully refused to permit a public record to be inspected or copied, the court shall award attorneys fees.

II. Present Situation:

Public Records Requirements

The Florida Constitution provides that every individual has a right of access to public records which are made or received in connection with official public business.¹ This right applies to records of the legislative, executive, and judicial branches.²

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

The Public Records Act, codified in ch. 119, F.S., expressly guarantees every person's right to inspect and copy any state or local government public record³ at any reasonable time, under reasonable conditions, and under the supervision of the public records custodian.⁴ The Public Records Act also applies to a private contractor if that private business acts on behalf of a governmental entity.⁵

An agency, as defined by ch. 119, F.S., may not impose greater conditions on responding to a public records request than those required by law. For example, an agency may not require a person seeking a public record to disclose his or her background.⁶ Nor may an agency require an individual to put his or her request in writing as a condition of production.⁷ An agency must honor a request whether a person requests records by phone, in writing, or in person, if the request is sufficient to identify the records sought.⁸

Custodian of Public Records

Pursuant to s. 119.011(5), F.S., a custodian of public records is “the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.”

A custodian of public records is required to perform statutorily required duties such as maintaining records in fireproof vaults, repairing records and complying with retention schedules set by the Department of State.⁹ Section 119.07, F.S., also provides that a public records custodian has duties that include:

- Acknowledging public records requests and responding to those requests in good faith;¹⁰
- Producing records after redacting exempt information or providing the statutory citation for an exemption if the entire document is exempt;¹¹
- Maintaining records which are the subject of public records litigation;¹²
- Ensuring that public records are secure if they are provided electronically;¹³
- Providing supervision if someone wishes to photograph records;¹⁴ and

³ Section 119.011(12), F.S., defines “public record” as “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁴ Section 119.07(1)(a), F.S.

⁵ Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Bevan v. Wanichka*, 505 So. 2d 1116, 1118 (Fla. 2d DCA Fla. 1987).

⁷ *Dade Aviation Consultants v. Knight Ridder, Inc.*, 800 So. 2d 302, n.1 (Fla. 3d DCA 2001); Op. Att’y Gen. Informal Opinion (Dec. 16, 2003). *Chandler v. City of Greenacres*, 140 So. 3d 7 (Fla. 4th DCA 2014).

⁸ Op. Att’y Gen. Fla. 80-57, pg. 3 (1980).

⁹ Section 119.021, F.S.

¹⁰ Section 119.07(1)(c), F.S.

¹¹ Section 119.07(1)(d)-(f), F.S.

¹² Section 119.07(1)(g)-(i), F.S.

¹³ Section 119.07(2), F.S.

¹⁴ Section 119.07(3), F.S.

- Providing certified copies of public records upon payment of a fee.¹⁵

Public records custodians are also responsible for supervising the production of records by all agency personnel. Section 119.07(1)(a), F.S., provides that “[e]very person who has custody of a public record shall permit the record to be inspected and copied... at any reasonable time, under reasonable conditions, and under reasonable supervision by the custodian of the public records.”

Enforcing Public Records Laws and Attorney Fees

Article I, Section 24(c), Florida Constitution, requires the Legislature to enact laws governing the enforcement of public records requirements, including the “maintenance, control, destruction, disposal, and disposition of records.”

Under s. 119.11, F.S., a person may enforce his or her right to inspect a public record by filing a lawsuit against an agency. In those lawsuits, the court must set an immediate hearing, giving the case priority over other cases.¹⁶ If a court orders an agency to open its records for inspection, the agency must comply within 48 hours.¹⁷

Section 119.12, F.S., provides that if a court finds that an agency unlawfully refused access to a public record, the court will order the public agency to pay costs and attorney fees related to the enforcement lawsuit.¹⁸ An unjustified delay in turning over public records is also considered an unlawful refusal, and a court will award attorney fees even if the delay was not willful or if the delay was due to incompetence.¹⁹ When a court awards attorney fees in a public records case, “there is no additional requirement...that the trial court find that the public agency did not act in good faith, acted in bad faith, or acted unreasonably.”²⁰

Enforcement lawsuits are composed of two parts: the request for production of a record and the assessment of fees. The assessment of attorney fees is a legal consequence independent of the public records request.²¹ Once the requestor files suit, the court will require a public agency to pay the requestor’s attorney fees even after the agency has produced the records.²² The Florida

¹⁵ Section 119.07(4), F.S.

¹⁶ Section 119.11(1), F.S.

¹⁷ Section 119.11(2), F.S.

¹⁸ Section 119.12, F.S. In 1984, the Legislature amended the public records attorney fee provision, deleting language which would permit attorney fees to be awarded only when records are “unreasonably” refused and replaced it with “unlawfully” refused. Ch. 84-298, s. 7, Laws of Fla. The Florida Supreme Court stated what once the Legislature amended s. 119.12, F.S., from “unreasonable” refusal to “unlawful” refusal, the Legislature “eliminated the potential that an award for attorney’s fees would be denied just because the public agency acted reasonably in violating the Public Records Act...The public agency’s failure to comply, rather than its good or bad faith in doing so, became the relevant inquiry.” *Bd. of Trs. v. Lee*, 189 So. 3d 120 at 126 (Fla. Apr. 14, 2016). Based on the Legislature’s removal of the word “unreasonably,” a court concluded that good faith or honest mistakes do not excuse a defendant from being assessed attorney fees.” *News and Sun-Sentinel Co. v. Palm Beach County*, 517 So. 2d 743, 744 (Fla. 4th DCA 1987), partially disapproved of in *New York Times Co. v. PHH Mental Health Services, Inc.*, 616 So.2d 27, 30 (Fla. 1993).

¹⁹ *Lilker v. Suwannee Valley Transit Authority*, 133 So. 3d 654, 655-656 (Fla. 1st DCA 2014); *Barfield v. Town of Eatonville*, 675 So. 2d 223, 225 (Fla. 5th DCA 1996).

²⁰ *Bd. Of Trs. v. Lee*, 189 So. 3d 120 at 126 (Fla. Apr. 14, 2016).

²¹ *Mazer v. Orange County*, 811 So. 2d 857, 859 (Fla. 5th DCA 2002).

²² *Mazer v. Orange County*, 811 So. 2d 857, 860 (Fla. 5th DCA 2002); *Barfield v. Town of Eatonville*, 675 So. 2d 223, 224 (Fla. 5th DCA 1996); *Cookston v. Office of the Pub. Defender*, LEXIS 10858 at *6 (Fla. 5th DCA July 15, 2016).

Supreme Court stated that the public policy behind awarding attorney fees is to encourage people to pursue their right to access government records after an initial denial, and that granting attorney fees makes it more likely that public agencies will comply with public records laws.²³

The Florida Constitution also requires all meetings of any collegial public body of the executive branch of state government or of any local government, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, to be open and noticed to the public.²⁴ Open meetings laws also include an attorney fee provision. Section 286.0114(7)(a), F.S., provides:

- (a) Whenever an action is filed against a board or commission to enforce this section, the court shall assess reasonable attorney fees against such board or commission if the court determines that the defendant to such action acted in violation of this section. The court may assess reasonable attorney fees against the individual filing such an action if the court finds that the action was filed in bad faith or was frivolous. This paragraph does not apply to a state attorney or his or her duly authorized assistants or an officer charged with enforcing this section.
- (b) Whenever a board or commission appeals a court order that has found the board or commission to have violated this section, and such order is affirmed, the court shall assess reasonable attorney fees for the appeal against such board or commission.

Public Records Requests, Settlements and Attorney Fees

Over the past few years, governmental entities have been sued based on their failure to provide public records in cases that appear to be less about private citizens getting access to public records than about generating settlements or attorney fees. Governmental entities often settle the public records complaints because settlements are less costly than litigation.

The Town of Gulf Stream filed a federal lawsuit against a resident, the Citizen's Awareness Foundation, Inc., Our Public Records LLC, and other defendants based on their use of public records laws.²⁵ The Town of Gulf Stream alleged that the defendants sent bogus public records requests that were intended to be overlooked, and then asked for settlements that were higher than actual attorney fees and costs, or they filed frivolous lawsuits and then attempted to obtain settlements.²⁶ The case was dismissed by a federal judge, who stated:

To the extent Defendants are abusing the rights afforded them by the Florida public records laws, those abuses must be addressed in the individual lawsuits filed, or through a change in the laws by the Florida Legislature.²⁷

Counties and state agencies also have been sued because of their failure to provide public records. In another case, an entity called Consumer Rights, LLC, filed a public records lawsuit

²³ *New York Times Co. v. PHH Mental Health Services, Inc.*, 616 So. 2d 27, 29 (Fla. 1993).

²⁴ FLA. CONST., art. I, s. 24(b).

²⁵ *Town of Gulf Stream v. O'Boyle*, No. 15-80182-CIV-MARRA, U.S. Dist. LEXIS 84778 (S.D. Fla. June 30, 2015).

²⁶ *Id.* at 4.

²⁷ *Id.* at 11.

against Union County, which ultimately was appealed when the trial court refused to grant attorney fees to Consumer Rights, LLC. The First District Court found:

The plaintiff made the request in a suspicious email that could not be easily verified, directed it to a general email account that might not be checked by the person having anything to do with the records at issue, waited four months without saying anything and then sued the county, claiming a right to attorney fees.²⁸

In this case, the First District Court of Appeal affirmed the lower court's decision to deny attorney fees to the plaintiff. The First District Court found that the manner in which the public records request was made, as well as the fact that the County ultimately provided the requested record when it became apparent that the email was not spam, indicated that there was no refusal to provide the requested records.²⁹ Since there was no refusal, there was no basis for awarding attorney fees.

Consumer Rights, LLC, also filed an enforcement lawsuit against the Department of Economic Opportunity, but was not awarded fees because of procedural issues. The First District Court found that there was some evidence to support the state agency's allegations that Consumer Rights, LLC, was engaged in a "scheme [that] was designed to generate fees" but the Court declined to rule on the allegation.³⁰

Public Records and Private Contractors

Public agencies, including local and statewide governmental entities and municipal officers may hire contractors to provide services or act on behalf of the public agency.³¹ Contractors can be individuals or business entities.³² Private contractors who act on behalf of a public agency are required by law and the terms of their contracts to comply with public records laws.³³ These duties include keeping public records, providing the public an opportunity to inspect or copy a public record, and redacting exempt information.³⁴ A request for a contractor's records must be submitted to the agency. The agency will then request the records from the contractor or arrange for the public to inspect the requested records.³⁵

If a contractor fails to comply with a public records request, the requestor may sue the contractor.³⁶ Enforcement costs (including attorney fees) will be awarded only if the contractor unlawfully refused to comply with the request and the requestor provided written notice to the

²⁸ *Consumer Rights, LLC, v. Union County, Fla.*, 159 So. 3d 882, 885 (Fla. 1st DCA 2015).

²⁹ *Consumer Rights, LLC*, at 886-887. *Accord Citizens Awareness Found., Inc., v. Wantman Grp., Inc.*, LEXIS 7970 (Fla. 4th DCA May 25, 2016).

³⁰ *State v. Consumer Rights, LLC*, 181 So. 3d 1239, 1241 (Fla. 1st DCA 2015).

³¹ Section 119.0701(1)(b), F.S. *News and Sun-Sentinel Co. v. Schwab, Twitty and Hanser Architectural Group, Inc.*, 596 So. 2d 1029 (Fla. 1992). Op. Att'y Gen. Fla. Informal Opinion dated December 31, 2014.

³² Section 119.0701(1)(a), F.S.

³³ Section 119.011(2), s. 119.0701, F.S. *News and Sun-Sentinel Co. v. Schwab, Twitty and Hanser Architectural Group, Inc.*, 596 So. 2d 1029 (Fla. 1992).

³⁴ Section 119.0701(2)(b), F.S.

³⁵ Section 119.0701(2)(b)2. and (3), F.S.

³⁶ Section 119.0701(4), F.S.

agency that the contractor had not complied with the public records request.³⁷ The requestor must mail or email the notice at least eight days before filing suit.³⁸

If the contractor fulfills the public records request within 8 days, then the contractor is no longer liable for the enforcement costs.³⁹ The law is silent on whether an agency would be liable for attorney fees after the contractor has fulfilled the public records request. If a contractor fails to fulfill the public records request within 8 days, the contractor will be liable for enforcement costs.

When is a Private Contractor an Agency for Public Records Purposes?

Pursuant to s. 119.011(2), F.S., the definition of “agency” in the Public Records Act includes a “public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” In addition, s. 119.0701(1)(a), F.S., defines a contractor as an “individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency.”

To determine if a contractor is acting on behalf of a public agency, a totality of factors test may be applied.⁴⁰ Some of the factors a court may consider include, but are not limited to:

- Whether the public agency created the contractor;
- How much public funding was involved;
- How much the public agency regulated the contractor;
- The comingling of decision making processes;
- Whether the contractor was performing a government function; and
- The goals of the contractor.⁴¹

Private Contractors and Public Records Lawsuits

Private contractors also have been subject to lawsuits which appear to be more about generating settlements and attorney fees than about the individuals exercising their right to copy and inspect public records. In one such case, a circuit court judge in Duval County declined to award attorney fees in a public records enforcement case.⁴² According to the court order, the plaintiff made two separate requests for public records to a nonprofit organization under contract to provide social services for the Department of Children and Families. The contract manager refused to provide the documents because the contract manager believed the documents were not public records. The court found that the manner in which the plaintiff (and his companions) made the request ensured that “they obtained exactly what they wanted, namely an initial denial of an unreasonable and bogus request.”⁴³

³⁷ Section 119.0701(4)(a), F.S.

³⁸ Section 119.0701(4)(a)2., F.S.

³⁹ Section 119.0701(4)(a), F.S.

⁴⁰ *News and Sun-Sentinel Co. v. Schwab, Twitty & Hanser Architectural Group, Inc.*, 596 So. 2d 1029 (Fla. 1992).

⁴¹ *Id.* at 1032.

⁴² *Gray v. Lutheran Social Services of Northeast Florida, Inc.*, Final Order Denying Relief Under Public Records Act, No. 2014-CA-4647 (Fla. 4th Cir. Ct. Dec. 2, 2014). *Lutheran Social Services of Northeast Florida, Inc.*, 179 So. 3d 322 (Fla. 1st DCA 2015) AFFIRMED.

⁴³ *Id.*

The court found that the plaintiff's method of requesting public records was an abuse of the public records laws noting that the actions of the requester amounted to "nothing more than a scam."⁴⁴ The Final Order stated that the plaintiff and his attorney, who had an arrangement to split his attorney fees with the plaintiff, had "a financial interest in assuring that his requests for public records [were] refused."⁴⁵ The court noted that in 2014, the plaintiff filed 18 public records lawsuits in Duval County, and that the attorney represented the plaintiff on approximately 13 of those cases; the court noted that all of the cases followed a similar pattern.

The court opined that:

If a private entity must pay an attorney's fee every time an agent denies a needless request, the cost to the state to provide important services by contracting with private entities will increase; or private entities might discontinue bidding on these contracts. The chilling effect could be disastrous to the State. Further the [Public Records] Act was not designed to create a cottage industry for so-called "civil rights activists" or others who seek to abuse the [Public Records] Act for financial gain.⁴⁶

The First District Court of Appeal affirmed the trial court's decision on December 16, 2015.⁴⁷

Similarly, a suspicious email requesting public records was sent to a contractor and the sender subsequently sued the contractor in an enforcement action.⁴⁸ The court found that the contractor believed that the email was spam and did not comply with the request.⁴⁹ The court ruled that contractor had not refused to provide records, and therefore, no fees were due.⁵⁰ The court stated public records laws "should not be applied in a way that encourages the manufacture of public records requests designed to obtain no response, for the purpose of generating attorney's fees."⁵¹

III. Effect of Proposed Changes:

The bill makes granting enforcement costs (including attorney fees) discretionary when the court determines:

- The plaintiff has provided written notice of the public records request to the agency's custodian of public records at least 5 business days before filing the enforcement action; and
- A public entity has unlawfully refused to grant access to public records.

The bill also provides that in determining whether the responsible agency unlawfully refused to permit a public record to be inspected or copied, the court shall consider if the request was made in bad faith or was made to harass the agency or to cause a violation of ch. 119, and if the

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Lutheran Social Services of Northeast Florida, Inc.*, 179 So. 3d 322 (Fla. 1st DCA 2015).

⁴⁸ *Citizens Awareness Found. Inc., v. Wantman Grp., Inc.*, LEXIS 7970 at 12 (Fla. 4th DCA March 25, 2016).

⁴⁹ *Id.*

⁵⁰ *Id.* at 14.

⁵¹ *Id.* at 11.

responsible agency responded in good faith to the request to inspect or copy the records. Additionally, the bill provides that attorney fees may be awarded against a complainant if the court finds the action was filed in bad faith or was frivolous. Finally, the bill adds that if a complainant can show by a preponderance of the evidence that an agency intentionally or willfully refused to permit a public record to be inspected or copied, the court shall award attorneys fees.

The bill will take effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill will grant greater discretion to judges on when they will award attorney fees in public records request lawsuits. This may have the effect of reducing the likelihood of an attorney accepting a public records lawsuit if he or she will not be guaranteed fees. This provision also may have the effect of essentially imposing a requirement for the public to make public records requests in writing every time if they wish to receive attorney fees.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact

Private contractors which are agencies under the public records laws may spend less in settlements and attorney fees related to public records requests.

Individuals and groups who file public records lawsuits may spend more money to send letters to public records custodians. There would be little or no costs to these people or groups if they sent an email instead of a letter.

C. Government Sector Impact:

Governmental entities may spend less in settlements and enforcement costs related to public records requests because the courts are given more discretion. If the intent of the new notice requirement is to allow time for the public agency to “cure” the violation by producing the requested records prior to the initiation of the enforcement action and, thus, to minimize the award of attorney fees and costs, the provision may need to be clarified.

Current case law states that the enforcement action (the part of the lawsuit that seeks access to the public records) is independent of the part of the lawsuit that seeks an award for attorney fees and costs.⁵² A plaintiff may seek attorney fees and costs if the public agency has unlawfully refused access to the public records, even though the public agency ultimately provided the requested records.

In addition, the 5-day notice period may be too short. Mailing a letter 5 days before filing suit may not give an agency sufficient time to cure any defects in responding to a public records request, since the lawsuit could be filed before the records custodian receives the letter.

VI. Technical Deficiencies:

Since private contractors who act on behalf of an agency are also subject to public records laws, they also would have records custodians. It is not clear if this bill requires a citizen to send a notice to the contracting agency's public records custodian or to the business's records custodian.

VII. Related Issues:

Custodian of public records

Private citizens who are unable to get a public agency to provide access to public records may find it more cumbersome to send a letter to the public records custodian if his or her identity is not readily apparent. It may be difficult for a citizen to identify the custodian of public records because he or she may be the agency head, another officer or a designee.

VIII. Statutes Affected:

This bill substantially amends section 119.12 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 Committee on March 7, 2017:

- Adds guidance for the court when determining whether a public record was unlawfully refused for inspection.
- Provides that attorney fees may be awarded against a complainant if the court finds an action was filed in bad faith or was frivolous.
- Adds that if a complainant can show by a preponderance of the evidence that the agency intentionally or willfully refused to permit a public record to be inspected or copied, the court shall award the reasonable costs of enforcement and attorney fees against the agency.
- Removes the phrase “listed in the notice” for clarity.

⁵² *Mazer v. Orange County*, 811 So. 2d 857, 860 (Fla. 5th DCA 2002); *Cookston v. Office of the Pub. Defender*, LEXIS 10858 at 6 (Fla. 5th DCA July 15, 2016); *Schweickert v. Citrus Cnty. Fla. Bd.*, 193 So. 3d 1075 (Fla. 5th DCA 2016).

B. Amendments:

None.

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



281710

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 119.12, Florida Statutes, is amended to
read:

119.12 Attorney ~~Attorney's~~ fees.—

(1) If a civil action is filed against an agency to enforce
~~the provisions of~~ this chapter and ~~if~~ the court determines that
the complainant provided written notice of the public records



281710

request to the agency's custodian of public records at least 5 business days before filing the civil action and the ~~such~~ agency unlawfully refused to permit a public record listed in the notice to be inspected or copied, the court may ~~shall~~ assess and award, against the responsible agency ~~responsible~~, the reasonable costs of enforcement, including reasonable attorney attorneys' fees.

(2) (a) In determining whether the responsible agency unlawfully refused to permit a public record to be inspected or copied, the court shall consider if the request to inspect or copy the public record was made in bad faith or was made to harass the agency or to cause a violation of this chapter and if the responsible agency responded in good faith to the request to inspect or copy the records.

(b) The court may assess and award reasonable attorney fees against the complainant filing such an action if the court finds the action was filed in bad faith or was frivolous.

(c) If the complainant shows by the preponderance of the evidence that the agency intentionally or willfully refused to permit a public record listed in the notice to be inspected or copied, the court shall, after making such a finding, assess and award the reasonable costs of enforcement against the responsible agency, including reasonable attorney fees.

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

===== 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:



281710

40 A bill to be entitled
41 An act relating to public records; amending s. 119.12,
42 F.S.; requiring a complainant to timely provide
43 written notice of a public records request in order to
44 be entitled to the reasonable costs of enforcement,
45 including attorney fees, in certain civil actions for
46 enforcement of ch. 119, F.S.; providing that the award
47 of such attorney fees is within the discretion of the
48 court; specifying factors for a court to consider in
49 determining whether an agency unlawfully refused to
50 permit a public record to be inspected or copied;
51 authorizing a court to assess and award attorney fees
52 against a complainant if certain conditions exist;
53 specifying circumstances under which a court must
54 assess and award the reasonable costs of enforcement
55 against an agency; providing an effective date.



534824

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (281710)

Delete lines 13 - 14
and insert:
unlawfully refused to permit a public record to be inspected or
copied, the court may ~~shall~~ assess and

By Senator Steube

23-00206-17

201780__

A bill to be entitled

An act relating to public records; amending s. 119.12, F.S.; requiring a complainant to timely provide certain written notice in order to be entitled to attorney fees in certain civil actions for enforcement of ch. 119, F.S.; providing that the award of such attorney fees is within the discretion of the court; providing an effective date.

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

Section 1. Section 119.12, Florida Statutes, is amended to read:

119.12 Attorney ~~Attorney's~~ fees.—If a civil action is filed against an agency to enforce ~~the provisions of this chapter and~~ if the court determines that the complainant provided written notice of the public records request to the agency's custodian of public records at least 5 business days before filing the civil action and the ~~such~~ agency unlawfully refused to permit a public record listed in the notice to be inspected or copied, the court may ~~shall~~ assess and award, against the responsible ~~agency responsible,~~ the reasonable costs of enforcement, including reasonable attorney ~~attorneys'~~ fees.

Section 2. This act shall take effect July 1, 2017.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Banking and Insurance, *Vice Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

February 7, 2017

The Honorable Tom Lee
Florida Senate
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Lee,

I am writing this letter because my bill, SB 80 – Public Records, has been referred to the Senate Community Affairs Committee. This bill passed the Senate Government Oversight and Accountability committee on February 7. I am respectfully requesting that you place the bill on your committee's calendar for the upcoming committee weeks.

Thank you for your consideration. Please contact me if you have any questions.

Very respectfully yours,

A handwritten signature in blue ink, appearing to read "Greg Steube".

W. Gregory Steube, District 23

REPLY TO:

- ☐ 722 Apex Road, Unit A, Sarasota, Florida 34240 (941)342-9162
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17
Meeting Date

80
Bill Number (if applicable)

828202095
Amendment Barcode (if applicable)
281710

Topic _____

Name Casey Cook

Job Title Senior Legislative Advocate

Address PO Box 1757
Street

Phone 850 701 3701

Tallahassee FL 32302
City State Zip

Email ccook@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA LEAGUE OF CITIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Mar 6 2017
Meeting Date

80
Bill Number (if applicable)

Topic Public Records / Attorney fees

281710
Amendment Barcode (if applicable)

Name Barbara Petersen

Job Title President

Address 317 E Park Ave

Phone 224 4355

Tallahassee FL 32301
City State Zip

Email sunshine@flmdafaf.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing First Amendment Fndn

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 6, 2017

Meeting Date

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

SB 80

Bill Number (if applicable)

281710

Amendment Barcode (if applicable)

Topic Public Records

Name Shane Bennett

Job Title Chief of Police

Address 2739 Lake Street

Street

Lawtey

City

FL

State

32058

Zip

Phone 904-782-3751

Email lawteypolicepd@flcjn.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17

Meeting Date

80

Bill Number (if applicable)

281710

Amendment Barcode (if applicable)

Topic Public Records

Name Chris Lyon

Job Title Attorney

Address 315 S. Calhoun St., Suite 830

Street

Tallahassee

City

FL

State

32309

Zip

Phone 850/222-5702

Email clyon@llw-law.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Special Districts

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17

Meeting Date

SB 80

Bill Number (if applicable)

281 710

Amendment Barcode (if applicable)

Topic _____

Name Chris Schoonover

Job Title Consultant

Address 101 E. College Ave
Street

Phone 264.7588

Tallahassee FL 32301
City State Zip

Email cschoonover@capcityconsults.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing City of Venice

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/1/2017
Meeting Date

80
Bill Number (if applicable)

Topic Public Records

281710
Amendment Barcode (if applicable)

Name SAM MORLEY

Job Title GC

Address Calley Ave
Street

Phone 850 212 4395

Tallah FL 32312
City State Zip

Email smorley@flpress.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLA Press Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-6-17

Meeting Date

80

Bill Number (if applicable)

281710

Amendment Barcode (if applicable)

Topic PUBLIC RECORDS REQUEST ABUSES

Name JERRY PAUL FOR CITY OF PUNTA GORDA

Job Title

Address

Street

Phone 850-386-5267

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing CITY OF PUNTA GORDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17
Meeting Date

SB 80
Bill Number (if applicable)

Topic Public Records

Amendment
Amendment Barcode (if applicable)

Name Buddy Jacobs

Job Title General Counsel Fla. Prosecuting Attorneys Association

Address 961 687 Gateway Blvd.
Street
Fernandina Bch FL 32034
City State Zip

Phone 904-261-2693

Email ajacobs@comcast.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing State Attorneys of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/2017

Meeting Date

SB80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 South Monroe St

Phone (850) 681-0024

Tallahassee FL 32308

City State Zip

Email jorge@flapartners.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Novitex

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

MARCH 6 2017
Meeting Date

SB-80
Bill Number (if applicable)

Topic PUBLIC RECORDS

Amendment Barcode (if applicable)

Name J. B. CLARK

Job Title LOBBYIST

Address 2071 CYNTHIA DRIVE
Street

Phone 850-556-8143

TAUNAHASSER, FL 32303
City State Zip

Email JBCLARK5@GMAIL.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA ELECTRICAL WORKERS ASSN.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Diana Arteaga

Job Title Director of Govt Relations

Address 444 SW 2nd Ave

Phone 786-469-1644

Street

Miami

City

FL

State

33130

Zip

Email darteaga@miamigov.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing City of Miami

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17
Meeting Date

SB 80
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Theresa King

Job Title President

Address P O Box 10888
Street

Phone 850-228-8940

Tallahassee FL 32302
City State Zip

Email sb.t.king@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Building & Construction Trades

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-6-17

Meeting Date

80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Natake King

Job Title VP / COO

Address ~~835~~ 113 E College Ave

Phone 813 924 2218

City Tallahassee State FL Zip

Email Natake@rsaconsulting.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Charter School Leaders Hillsborough County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/7/17

Meeting Date

80

Bill Number (if applicable)

Topic PUBLIC RECORDS

Amendment Barcode (if applicable)

Name GAIL MORIE PERRY

Job Title CHAIR

Address PO BOX 1766

Phone 954/850 4053

Street

POMPADOUR BCH

State

FL

Zip

33061

Email workingfolk@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing COMMUNICATIONS WORKERS of AMERICA

Appearing at request of Chair: ☐ Yes ☒ No

COUNCIL of FLORIDA
Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6

Meeting Date

80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Zefnia Durham III

Job Title Transit ATU

Address 3827 NE 14th Street

Phone (352) 260-3524

Gainesville FL 32609

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17
Meeting Date

SB 80
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Ben Wilcox

Job Title _____

Address 1719 Old Fort Dr.
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17

Meeting Date

80

Bill Number (if applicable)

Topic PUBLIC RECORDS

Amendment Barcode (if applicable)

Name LAUKA YOUNG

Job Title _____

Address _____
Street

Phone _____

City _____

State _____

Zip _____

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-14

Meeting Date

SB 80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Barbara DeBane

Job Title Ms

Address 625 E. Brevard St

Phone 850-251-4280

Street

City

State

Zip

Tallahassee FL 32308

Email barbadebane1@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/06/17

Meeting Date

5B80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Rich Templin

Job Title _____

Address 135 S. Monroe

Phone 850 - 224 - 6926

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17

Meeting Date

80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Marshall Ogletree

Job Title Executive Director

Address 115 N. Calhoun St., Suite 6

Street

Tallahassee

City

FL

State

32309

Zip

Phone (850) 224-8220

Email marshall.ogletree@floridacourts.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing United Faculty of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

SB 80

Bill Number (if applicable)

Topic SB 80 Public Records Laws

Amendment Barcode (if applicable)

Name Steven Hall

Job Title Retiree

Address 2619 CORRIVE DR.

Street

Phone

Orlando

FL

32805

City

State

Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17*Meeting Date*80*Bill Number (if applicable)*Topic Public Records*Amendment Barcode (if applicable)*Name Eric Prutsman

Job Title _____

Address P.O. Box 10448Phone 850-894-6601*Street*TallahasseeFL32302Email eric@prutsmanlaw.com*City**State**Zip*Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Fire Chiefs AssociationAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

SB 911

Bill Number (if applicable)

Topic

Public Records

Amendment Barcode (if applicable)

Name

Jeff Lemmonson

Job Title

Teacher

Address

104 Botures Way

Street

Royal Palm Beach

City

State

FL

Zip

33411

Phone

561 2485416

Email

Jeff Lev@aol.com

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Representing

Myself

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17

Meeting Date

80

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name GLENN ARICHT

Job Title SERVICES TECH.

Address 4305 SW 98 AV

Street

Phone 786-376-1181

City

Miami,

State

FL

Zip

33165

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

SB 80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Donald Persson

Job Title Teacher

Address 12980 Orange Grove Blvd.

Street

Phone (561) 719-6838

West Palm Beach

FL

33411

City

State

Zip

Email donaldpersson

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 6, 2017

Meeting Date

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

SB 80

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Shane Bennett

Job Title Chief of Police

Address 2739 Lake Street

Phone 904-782-3751

Lawley FL 32058

City

State

Zip

Email lawleypolicepd@flcjp.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/2017

80

Meeting Date

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone 850-877-2165

Street

Tallahassee

FL

32308

Email mdunagan@flsheriffs.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Sheriffs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/7/17*Meeting Date*80*Bill Number (if applicable)*

Topic _____

*Amendment Barcode (if applicable)*Name Leslie Dughi

Job Title _____

Address 101 East College Avenue
Street

Phone _____

*City**State**Zip*Email dughil@gtlaw.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing City of North PortAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17

Meeting Date

SB 80

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Beth Rawlins

Job Title President

Address PO Box 16414

Phone 727-797-9333

Street

Clearwater

FL

33759

City

State

Zip

Email rawlins@floridabusinesswatch.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Business Watch

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17
Meeting Date

80
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name JERRY PAUL (for City of Punta Gorda)

Job Title _____

Address 310 W. College Ave
Street
Tallahassee FL
City State Zip

Phone 850-386-5267

Email j.paul@capitolenergy.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing CITY OF PUNTA GORDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 80
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, March 6, 2017
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 464

INTRODUCER: Senator Clemens

SUBJECT: Natural Hazards

DATE: March 3, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	Favorable
2.	Cochran	Yeatman	CA	Favorable
3.			GO	
4.			RC	

I. Summary:

SB 464 creates an interagency workgroup to address the impacts of natural hazards in this state. Natural hazards are defined to include, but are not limited to, extreme heat, drought, wildfires, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

The natural hazards interagency workgroup is comprised of a liaison from each agency within the executive branch of state government, each water management district, and the Florida Public Service Commission. The director of the Florida Division of Emergency Management (FDEM), or his or her designee, will serve as both the agency liaison and the coordinator of the workgroup.

The FDEM is responsible for preparing an annual progress report on the implementation of the state's enhanced hazard mitigation plan as it relates to natural hazards. The annual report is due to the Governor, President of the Senate, and Speaker of the House of Representatives on January 1, 2019, and each year thereafter. Each liaison is responsible for posting the workgroup's annual report to their respective agency's website.

II. Present Situation:

Natural Hazards in Florida

A hazard is any event or condition with the potential to cause fatalities, injuries, property damage, infrastructure damage, agricultural loss, environmental damage, business interruption, or other structural and financial loss.¹ Hazards are categorized as either natural, human-caused,

¹ FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Executive Summary*, 2 (Aug. 2013), available at <http://www.floridadisaster.org/mitigation/State/Index.htm> (last visited February 24, 2017).

or technological.² The Florida Division of Emergency Management identifies the following natural hazards that pose the greatest threat to Florida:

- Floods, to include potential for dam failure and sea level rise;
- Tropical cyclones;³
- Severe storms and tornadoes;
- Wildfires;
- Drought;
- Extreme heat;
- Winter storms and freezes;
- Erosion; and
- Sinkholes, landslides, and seismic events.⁴

Since 1980, the United States has sustained 203 weather and climate disasters where overall damages and costs reached or exceeded \$1 billion, costing U.S. taxpayers in excess of \$1.1 trillion.⁵ Of those 203 events, 44 had some impact to Florida.⁶ During that same period of time, Florida received 62 major disaster or emergency declarations for natural hazards and 57 Fire Management Assistance⁷ declarations.⁸

FEMA Mitigation Grant Programs

The Federal Emergency Management Agency (FEMA) was established in 1979 to centralize federal emergency and disaster activities.⁹ FEMA's mission is to support citizens and first responders to build, sustain, and improve capabilities to prepare for, protect against, respond to, recover from, and mitigate all hazards.

The latter of FEMA's primary mission areas, hazard mitigation, is defined as any sustained action taken to reduce or eliminate the long-term risk to human life and property from hazards.¹⁰ FEMA administers five mitigation grant programs designed to reduce community vulnerability to disasters and their effects, promote individual and community safety and resilience, and

² FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Section 3.0: State Risk Assessment*, 3.7 (Aug. 2013).

³ Tropical cyclones are classified as a tropical depression, tropical storm, hurricane, or major hurricane. See National Hurricane Center, *Tropical Cyclone Climatology*, available at <http://www.nhc.noaa.gov/climo/> (last visited Feb. 24, 2017).

⁴ FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Section 3.0: State Risk Assessment*, 3.12-3.14 (Aug. 2013).

⁵ National Oceanic and Atmospheric Administration, *Billion-Dollar Weather and Climate Disasters*, available at <http://www.ncdc.noaa.gov/billions> (last visited Feb. 24, 2017).

⁶ See National Oceanic and Atmospheric Administration, *Billion-Dollar Weather and Climate Disasters: Mapping*, available at <http://www.ncdc.noaa.gov/billions/mapping> (last visited Feb. 24, 2017).

⁷ A FEMA Fire Management Assistance declaration makes funding through the Fire Management Assistance Grant Program available to states, local, and tribal governments for the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster. See FEMA, *Fire Management Assistance Grant Program*, available at <https://www.fema.gov/fire-management-assistance-grant-program> (last visited Feb. 24, 2017).

⁸ FEMA, *Disaster Declarations*, available at https://www.fema.gov/disasters?field_state_tid_selective=47&field_disaster_type_term_tid=All&field_disaster_declaration_type_value=All&items_per_page=20 (last visited Feb. 24, 2017).

⁹ FEMA, *About the Agency* (May 11, 2016), available at <https://www.fema.gov/about-agency> (last visited Feb. 24, 2017).

¹⁰ 44 C.F.R. s. 201.2.

promote community vitality after an incident.¹¹ Mitigation programs are also intended to reduce response and recovery resource requirements in the wake of a disaster or incident, which results in a safer community that is less reliant on external financial assistance.¹²

Four of the FEMA mitigation grant programs are authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).¹³ These programs include the Hazard Mitigation Grant Program, the Pre-Disaster Mitigation Grant Program, the Public Assistance Grant Program, and the Fire Management Assistance Grant Program.¹⁴ The National Flood Insurance Act authorizes the fifth grant program called the Flood Mitigation Assistance grant, which was created with the goal of reducing or eliminating claims under the National Flood Insurance Program.¹⁵ Funds received from any one of these grants can be used for hazard mitigation planning, mitigation activities,¹⁶ or both.¹⁷

In order for state, tribal, and local governments to receive a FEMA mitigation grant, the applicant must produce a hazard mitigation plan approved by FEMA that conforms to a specified set of requirements.¹⁸ At a minimum, a hazard mitigation plan must outline processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.¹⁹ Jurisdictions must update their plans and re-submit them to FEMA every 5 years to maintain eligibility.²⁰

Florida Division of Emergency Management

The Florida Division of Emergency Management (FDEM) administers programs to apply rapidly all available aid to impacted communities stricken by emergency.²¹ The FDEM is responsible for maintaining a comprehensive statewide program of emergency management to ensure that Florida is prepared to respond to emergencies, recover from them, and mitigate against their impacts. In doing so, the FDEM coordinates efforts with and among the federal government, other state agencies, local governments, school boards, and private agencies that have a role in emergency management.²² The FDEM also serves as the administrator of federal funds awarded to the state and local governments through FEMA's mitigation grant programs.

¹¹ FEMA, *Hazard Mitigation Assistance Guidance*, (Feb. 27, 2015), available at https://www.fema.gov/media-library-data/1424983165449-38f5dfc69c0bd4ea8a161e8bb7b79553/HMA_Guidance_022715_508.pdf (last visited Feb. 24, 2017).

¹² *Id.*

¹³ 42 U.S.C. 5121 et seq.

¹⁴ See FEMA, *Hazard Mitigation Planning Laws, Regulations, and Policies* (Sept. 12, 2016), available at <https://www.fema.gov/hazard-mitigation-planning-laws-regulations-policies> (last visited Feb. 24, 2017).

¹⁵ *Id.*

¹⁶ Examples of hazard mitigation activities include, but are not limited to, the elevation or relocation of chronically flood-damaged homes away from flood hazard areas, retrofitting buildings to make them resistant to earthquakes or strong winds, and adoption and enforcement of adequate building codes and standards set by local, state, and federal governments. See FEMA, *Mitigation Ideas* (Jan. 2013), available at https://www.fema.gov/media-library-data/20130726-1904-25045-2423/fema_mitigation_ideas_final_01252013.pdf (last visited Feb. 24, 2017).

¹⁷ FEMA, *Hazard Mitigation Plan Requirement*, (Dec. 23, 2016), available at <https://www.fema.gov/hazard-mitigation-plan-requirement> (last visited Feb. 24, 2017).

¹⁸ See 44 C.F.R. ss.201.4-201.7.

¹⁹ 42 U.S.C. 5165(b)(2).

²⁰ *Supra* note 17.

²¹ Section 14.2016, F.S.

²² Section 252.35(1), F.S.

State of Florida Enhanced Hazard Mitigation Plan

As described above, FEMA requires all states to have a FEMA-approved hazard mitigation plan as a condition to receive some types of federal disaster assistance.²³ As specified in the Stafford Act, a state's hazard mitigation plan must:

- Identify the natural hazards, risks, and vulnerabilities of all areas in the state;
- Support development of local government mitigation plans;
- Provide for technical assistance to local and tribal governments for mitigation planning; and
- Identify and prioritize mitigation actions that the state will support, as resources become available.²⁴

The current State of Florida Enhanced Hazard Mitigation Plan, effective August 2013, identifies potential hazards and vulnerabilities, sets goals, and establishes specific mitigation actions to reduce risk to people, buildings, infrastructure, and the environment.²⁵ Within the plan is a section dedicated to profiling Florida's natural, technological, and manmade hazards in extensive detail.²⁶ Of those natural hazards, the plan profiles flooding, to include flash floods, inland floods, and coastal floods; tropical cyclones, to include storm surge; severe storms and tornadoes; wildfires; drought; extreme heat; winter storms and freezes; erosion; sinkholes, earthquakes, and landslides; tsunamis; and solar storms.²⁷

The FDEM is responsible for developing and coordinating efforts to maintain and update the state hazard mitigation plan. The FDEM accomplishes this with the collaboration and coordination of an advisory team known as the State Hazard Mitigation Plan Advisory Team (SHMPAT). The SHMPAT participants include numerous state agencies, regional planning councils, water management districts, state universities, other government entities, and community stakeholders. The primary function of the SHMPAT is to assist the FDEM with the development, implementation, and maintenance of the state hazard mitigation plan, comment on draft versions, and to maximize the leveraging potential of all state mitigation related resources.²⁸

The current State of Florida Enhanced Hazard Mitigation Plan took effect in August 2013. The FDEM and the SHMPAT are in the process of updating the current plan for FEMA to approve in 2018.

III. Effect of Proposed Changes:

The bill creates s. 252.3655, F.S., to establish a natural hazards interagency workgroup. This workgroup is directed to share information on the current and potential impacts of natural hazards throughout the state, coordinate the ongoing efforts of state agencies in addressing the

²³ Supra note 17.

²⁴ 42 U.S.C. s.5165(c).

²⁵ Supra note 1.

²⁶ FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Section 3.3: Profiling Florida's Hazards* (Aug. 2013).

²⁷ *Id.*

²⁸ FDEM, *State of Florida Enhanced Hazard Mitigation Plan, Section 2.0: Planning Process* (Aug. 2013).

impacts of natural hazards, and collaborate on statewide initiatives to address the impacts of natural hazards.

The term “natural hazards” includes, but is not limited to, extreme heat, drought, wildfires, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

The workgroup is comprised of a liaison from each agency within the executive branch of state government, each water management district, and the Florida Public Service Commission. The director of the Florida Division of Emergency Management, or his or her designee, will serve as both the agency liaison and the coordinator of the workgroup.

The FDEM is responsible for preparing an annual progress report on behalf of the workgroup on the implementation of the state’s enhanced hazard mitigation plan, as it relates to natural hazards. The annual report is due to the Governor, President of the Senate, and Speaker of the House of Representatives on January 1, 2019, and each year thereafter. Each liaison is responsible for posting the workgroup’s annual report to their respective agency’s website. The report shall, at a minimum:

- Assess the relevance, level, and significance of current agency efforts to address the impacts of natural hazards; and
- Strategize and prioritize ongoing efforts to address the impacts of natural hazards.

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:

None.

C. Government Sector Impact:

The bill directs the FDEM to serve as the coordinator of the natural hazards interagency workgroup and prepare an annual report on behalf of the workgroup. According to the FDEM, the resources and manpower needed to develop the workgroup and organize quarterly teleconferences exceed the FDEM's current resources.²⁹ The FDEM estimates it would need at least one additional full-time employee to manage the added responsibilities provided in the bill.³⁰

Additionally, the bill may increase the workload for existing agency personnel designated as an agency's liaison to the natural hazards interagency workgroup.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the FDEM, implementation of a natural hazards interagency workgroup may duplicate many of the functions currently undertaken by the State Hazard Mitigation Plan Advisory Team.³¹ The FDEM also states that in addition to the federally mandated 5-year update, the FDEM maintains and updates the State Hazard Mitigation Plan as needed.³²

VIII. Statutes Affected:

This bill creates section 252.3655 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.

²⁹ FDEM, *Senate Bill 464 Agency Analysis* (Jan. 26, 2017) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

³⁰ Id.

³¹ Id.

³² Id.

By Senator Clemens

31-00783-17

2017464__

1 A bill to be entitled
2 An act relating to natural hazards; creating s.
3 252.3655, F.S.; creating an interagency workgroup to
4 share information, coordinate ongoing efforts, and
5 collaborate on initiatives relating to natural
6 hazards; defining the term "natural hazards";
7 requiring certain agencies to designate liaisons to
8 the workgroup; designating the director of the
9 Division of Emergency Management or his or her
10 designee as the liaison to and coordinator of the
11 workgroup; specifying duties and responsibilities of
12 each liaison and the workgroup; requiring the division
13 to prepare an annual report; specifying report
14 requirements; requiring each agency liaison to ensure
15 that the report is posted on his or her agency's
16 website; requiring the workgroup to submit the report
17 to the Governor and the Legislature; providing an
18 effective date.

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

21
22 Section 1. Section 252.3655, Florida Statutes, is created
23 to read:

24 252.3655 Natural hazards interagency workgroup.-

25 (1) (a) An interagency workgroup is created for the purpose
26 of sharing information on the current and potential impacts of
27 natural hazards throughout the state, coordinating the ongoing
28 efforts of state agencies in addressing the impacts of natural
29 hazards, and collaborating on statewide initiatives to address
30 the impacts of natural hazards. As used in this section, the
31 term "natural hazards" includes, but is not limited to, extreme
32 heat, drought, wildfire, sea-level change, high tides, storm

31-00783-17

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33 surge, saltwater intrusion, stormwater runoff, flash floods,
34 inland flooding, and coastal flooding.

35 (b) Each agency within the executive branch of state
36 government, each water management district, and the Florida
37 Public Service Commission shall select from within such agency a
38 person to be designated as the agency liaison to the workgroup.

39 (c) The director of the Division of Emergency Management or
40 his or her designee shall serve as the liaison to and
41 coordinator of the workgroup.

42 (d) Each liaison shall provide information from his or her
43 respective agency on the current and potential impacts of
44 natural hazards to his or her agency, agency resources available
45 to mitigate against natural hazards, and efforts made by the
46 agency to address the impacts of natural hazards.

47 (e) The workgroup shall meet in person or by teleconference
48 on a quarterly basis to share information, leverage agency
49 resources, coordinate ongoing efforts, and provide information
50 for inclusion in the annual progress report submitted pursuant
51 to subsection (2).

52 (2) (a) On behalf of the workgroup, the Division of
53 Emergency Management shall prepare an annual progress report on
54 the implementation of the state's hazard mitigation plan,
55 developed and submitted in accordance with 42 U.S.C. s. 5165 and
56 any implementing regulations, as it relates to natural hazards.
57 At a minimum, the annual progress report must:

58 1. Assess the relevance, level, and significance of current
59 agency efforts to address the impacts of natural hazards; and

60 2. Strategize and prioritize ongoing efforts to address the
61 impacts of natural hazards.

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62 (b) Each liaison is responsible for ensuring that the
63 workgroup's annual progress report is posted on his or her
64 agency's website.

65 (c) By January 1, 2019, and each year thereafter, the
66 workgroup shall submit the annual progress report to the
67 Governor, the President of the Senate, and the Speaker of the
68 House of Representatives.

69 Section 2. This act shall take effect July 1, 2017.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Higher Education
Communications, Energy, and Public Utilities
Criminal Justice

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JEFF CLEMENS

Democratic Whip
31st District

February 21, 2017

Senator Tom Lee, Chair
Senate Committee on Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Lee:

I respectfully request that SB 464 – Natural Hazards be added to the agenda for the next Senate Committee on Community Affairs meeting.

SB 464 creates an interagency workgroup to share information on the current and potential impacts of natural hazards throughout the state, coordinate the ongoing efforts of state agencies in addressing the impacts of natural hazards, and collaborate on statewide initiatives to address the impacts of natural hazards.

Please feel free to contact me with any questions. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeff Clemens", written in a cursive style.

Senator Jeff Clemens
Florida Senate District 31

REPLY TO:

- ☐ 508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
- ☐ 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

404

Meeting Date _____

Bill Number (if applicable) _____

Topic Nat'l. Honors

Amendment Barcode (if applicable) _____

Name ERIC POOLE

Job Title Asst. Leg Dir

Address 100 Maple
Street

Phone _____

City _____

State _____

Zip _____

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

315117
Meeting Date

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

SB 464
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title _____

Address 301 S. Brnough
Street
Tallahassee FL 32302
City State Zip

Phone 222 9684

Email Kconnofcities.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17
Meeting Date

Bill Number (if applicable)

Topic Workforce Task Force

Amendment Barcode (if applicable)

Name Peter Dyga

Job Title President

Address 3730 ~~San~~ Coconut Creek Parkway
Street

Phone 954-465-6844

Coconut Creek FL 33006
City State Zip

Email pdyga@abcofl.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Builders and Contractors Florida East Coast Chapter

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17
Meeting Date

Bill Number (if applicable)

Topic Workforce Task Force

Amendment Barcode (if applicable)

Name Jennifer Willkerson

Job Title Director of Marketing

Address 13614 Progress Blvd
Street

Phone 888-622-3720 ext 6908

Alachua FL 32615
City State Zip

Email jwillkerson@nccer.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NCCER

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17

Meeting Date

Bill Number (if applicable)

Topic CONSTRUCTION WORKFORCE TASK FORCE

Amendment Barcode (if applicable)

Name CAM FENTRISS

Job Title LEGISLATIVE COUNSEL

Address 1400 VILLAGE SQUARE # 3-243

Phone 850-222-2772

Street

TAU

City

FL

State

32312

Zip

Email CFENTRISS@AOL.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FCA, ROOFING & SHEET METAL CONTRACTORS ASSN

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

COMMITTEE: Community Affairs
ITEM: SB 464
FINAL ACTION: Favorable
MEETING DATE: Monday, March 6, 2017
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 428

INTRODUCER: Senator Brandes

SUBJECT: Local Government Participation in the Florida Retirement System

DATE: March 3, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.			GO	
3.			AP	

I. Summary:

SB 428 removes the option of enrollment in the Florida Retirement System pension plan for employees of a governing body of any municipality, metropolitan planning organization, or special district that submits an application to participate in the Florida Retirement System on or after January 1, 2017. Employees of a municipality, metropolitan planning organization, or special district who submitted an application on or after January 1, 2017, must be enrolled in the defined contribution program.

Employees of a governing body participating, or that has applied to participate, in the Florida Retirement Systems before January 1, 2017, may continue or choose enrollment in the pension plan.

This act applies retroactively to January 1, 2017.

II. Present Situation:

The Florida Retirement System (FRS)

The FRS is the fourth largest state retirement system in the United States.¹ It is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S., and administered by the Department of Management Services (DMS).² 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 Pension Plan. In 2007, the Institute of

¹ The Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016, at p. 6, available online at: https://www.rol.frs.state.fl.us/forms/2015-16_CAFR.pdf. (last visited Feb. 27, 2017).

² Section 121.021(5), F.S.

Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.³

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).⁴ 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.⁵ Members of the FRS are required to make employee contributions of 3 percent of their salary.⁶

The membership of the FRS is divided into five membership classes:

- The Regular Class⁷ consists of 545,680 active members, plus 3,709 in renewed membership;
- The Special Risk Class⁸ includes 70,695 active members;
- The Special Risk Administrative Support Class⁹ has 76 active members;
- The Elected Officers' Class¹⁰ has 2,026 active members, plus 115 in renewed membership; and
- The Senior Management Service Class¹¹ has 7,876 members, plus 143 in renewed membership.¹²

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.

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 FRS Pension Plan.

³ The Florida Retirement System Annual Financial Report, July 1, 2015 – June 30, 2016, at 29.

⁴ *Id.*, at 120.

⁵ *Id.*, at 154.

⁶ 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.

⁷ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁸ 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.

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² All figures from Florida Retirement System Annual Financial Report Fiscal Year Ended June 30, 2016, at 123.

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.

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 of employment 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 The investment plan also provides disability coverage for both in the line of duty and regular disability retirement benefits.¹⁶ An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁷

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁸ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁹

Pension Plan

The pension plan is administered by the Secretary of the Department of Management Services through the Division of Retirement.²⁰ Investment management of the pension plan assets is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing 6 years of service with an FRS employer.²¹ For members enrolled on or after July 1, 2011, the member vests in the pension plan after 8 years of creditable service.²² Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.²³ For most members of the pension plan, normal retirement occurs at 30 years of service or

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 5 years. If the member is not reemployed as an eligible employee within 5 years, then 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.

¹⁶ Section 121.4501(16), F.S.

¹⁷ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in the line of duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

¹⁸ Section 121.4501(8), F.S.

¹⁹ FLA.CONST. art. IV, s. 4.

²⁰ Section 121.025, F.S.

²¹ Section 121.021(45)(a), F.S.

²² Section 121.021(45)(b), F.S.

²³ Section 121.091, F.S.

age 62.²⁴ For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement occurs at 25 years of service or age 55.²⁵ Members initially enrolled in the pension plan on or after July 1, 2011, have longer vesting requirements. For unreduced benefits for members initially enrolled after that date, most members must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.²⁶

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;²⁷
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;²⁸ and
- Members in specified positions at a Florida College institution may elect to enroll in the State Community College System Optional Retirement Program.²⁹

Local Government Retirement Systems

Optional Participation in the System

Section 121.051(2)(b)1., F.S., authorizes the governing body of any municipality, metropolitan planning organization, or special district in Florida to elect to participate in the FRS upon proper application to the administrator. Before being approved for participation in the system, the governing body of the municipality, metropolitan planning organization or special district that has a local retirement system must submit to the administrator a certified financial statement showing the condition of the local retirement system within 3 months before the proposed effective date of membership in the FRS. The statement must be certified by a recognized accounting firm that is independent of the local retirement system.

A municipality, metropolitan planning organization, or special district that has an existing retirement system covering the local employees in the units that are to be brought under the FRS may participate only after holding a referendum in which all employees in the affected units have

²⁴ Section 121.021(29)(a)1., F.S.

²⁵ Section 121.021(29)(b)1., F.S.

²⁶ Sections 121.021(29)(a)2. and (b)2., F.S.

²⁷ 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.

²⁸ 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.

²⁹ 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.

the right to participate.³⁰ Only those employees voting affirmatively in the referendum for coverage under the FRS are eligible.³¹ Those employees not participating or electing not to be covered by the FRS shall remain in their present systems and are not eligible for coverage under the FRS.³² After the referendum, all future employees are compulsory members of the FRS.³³

At the time of joining the FRS, the governing body of a municipality, planning organization, or special district, may elect to provide, or not provide, benefits based on past service of officers and employees.³⁴ However, if the employer elects to provide past service benefits, those benefits must be provided for all officers and employees of its covered group.³⁵

After a municipality, planning organization, or special district elects to join the FRS and approves it via referendum, the local government may not revoke it, and all present officers and employees electing coverage and all future officers and employees are compulsory members of the FRS.³⁶ However, there is an exception for the governing body of a hospital licensed under ch. 395, F.S., in certain circumstances.³⁷

Annual Report

The Department of Management Services completes an annual report, which details division activities, findings, and recommendations concerning all government retirement systems.³⁸ Within DMS, the Division of Retirement's Bureau of Local Retirement Systems issues this annual report. In 2015, DMS published its 35th annual report since it started reviewing the local government retirement in 1981, pursuant to s. 112.63, F.S., to ensure that local government retirement plans are funded on an actuarially sound basis. The number of defined benefit local government retirement plans has increased from 355 in 1981 to 490 in 2015.³⁹ Out of the 490 municipal and special district retirement plans and school boards' early retirement programs, 91 are closed to new members or have frozen benefit accruals.⁴⁰

In aggregate, these plans provide retirement, death, and/or disability benefits to 91,647 retirees, beneficiaries, Deferred Retirement Option Plan (DROP) participants and vested terminated participants.⁴¹ Active plan membership for only the municipalities and special districts retirement plans is 95,522, while school board early retirement program active plan membership is 587.⁴² Total plan assets were valued at approximately \$34.99 billion for the municipalities and special districts and \$68.7 million for the school boards' early retirement programs, as of

³⁰ Section 121.051(2)(b)2., F.S.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ Section 121.051(2)(b)3., F.S.

³⁵ *Id.*

³⁶ Section 121.051(2)(b)4., F.S.

³⁷ Section 121.051(2)(b)6. and 7., F.S.

³⁸ Section 112.665(1)(d), F.S.

³⁹ Local Government Retirement Systems, 2015 Annual Report, p. 1, available at https://www.rol.frs.state.fl.us/forms/2015_Local_Report.pdf (last visited Feb. 27, 2017).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

September 30, 2015.⁴³

Florida's local government retirement plans experienced mixed results in 2015. There were 484 defined benefit retirement plans as of September 30, 2015.⁴⁴ Specifically, there were 200 municipalities and 47 special districts with such plans.⁴⁵ Many local governments sponsor defined benefit retirement plans for more than one employee group.⁴⁶ The number of active employees in municipal and special district defined benefit plans changed by -2.21 percent, but the number of retirees, beneficiaries, DROP participants and vested terminees changed by +3.34 percent.⁴⁷ Covered employees' payroll changed by -0.19 percent, and contributions made to those retirement plans changed by +0.58 percent. The average annual retiree pension for municipal and special district retirement plans is now \$26,728.⁴⁸ Asset values for local government retirement plans changed by +14.76 percent to \$34.99 billion.⁴⁹

The measurements for Florida's school boards early retirement programs also had mixed results in 2015.⁵⁰ There were only six reporting programs. Active employee membership changed by -86.97 percent, while school board early retirement plans' retirees and vested terminees changed by -2.61 percent.⁵¹ The average annual retiree supplemental pension is now \$5,248. Asset values for school board plans changed by +5.95 percent.⁵²

A total of 316 municipal and special district pension plans offer participants a DROP plan.⁵³

III. Effect of Proposed Changes:

Section 1 closes enrollment in the pension plan to employees of a governing body of any municipality, metropolitan planning organization, or special district that submits an application to the administrator to participate in the Florida Retirement System on or after January 1, 2017. On or after January 1, 2017, such employees must be enrolled in the defined contribution program established pursuant to s. 121.4501, F.S.⁵⁴

Employees of a governing body participating, or that has applied to participate, in the Florida Retirement System before January 1, 2017, may continue or choose enrollment in the pension plan.

Section 2 provides that the act applies retroactively to January 1, 2017.

⁴³ *Id.*

⁴⁴ *Id.* at 6.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ The Florida Supreme Court held that the Legislature is free under the Florida Constitution to alter retirement benefits prospectively. However, the Legislature may not retroactively alter the benefits to which a member of its retirement system is entitled. *Scott v. Williams* No. SC12-520 (Fla. 2013).

Section 3 provides that this act is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Employees of a governing body of a municipality, metropolitan planning organization, or special district that did not submit an application to the administrator to participate in the Florida Retirement System by January 1, 2017, will be enrolled in the defined contribution program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 121.051 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.



153682

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. (1) The Office of Program Policy Analysis and Government Accountability shall conduct a comprehensive study regarding methods of reducing economic insecurity in retirement and increasing opportunities for Florida residents who lack access to a workplace retirement plan or who do not contribute to a retirement plan outside of work to save adequately for



153682

retirement.

(2) At a minimum, the study must include all of the following:

(a) Statistics on the percentage of Florida residents who are enrolled in employer-sponsored retirement plans and of those who contribute to a retirement plan outside of employment. The statistics must also include the percentage of Florida residents enrolled in defined benefit plans and defined contribution plans.

(b) A review of programs enacted or proposed by other states to provide access to a state-sponsored retirement savings program for workers at private sector or nonprofit employers that do not offer plans.

(c) An examination of available investment options that would help to generate and protect workers' savings over the long-term and shield savings from market volatility and costly investment fees.

(3) The State Board of Administration and the Division of Retirement of the Department of Management Services shall provide technical assistance to the office, as requested.

(4) The office shall submit a report on the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2018. Upon submission of the report, this section shall expire.

Section 2. 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



153682

and insert:

A bill to be entitled

An act relating to retirement security; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study regarding retirement security; prescribing minimum requirements for the study; requiring the State Board of Administration and the Division of Retirement of the Department of Management Services to provide technical assistance, upon request; requiring the office to submit a report to the Governor and the Legislature by a specified date; providing for expiration; providing an effective date.

WHEREAS, most Americans are not saving enough for their retirement years, as evidenced by the fact that more than 30 million full-time private sector employees across the nation lack access to workplace retirement plans and less than 10 percent of all workers contribute to a retirement plan outside of employment, and

WHEREAS, the lack of adequate retirement savings results in economic insecurity, meaning that, after retirement, many Americans will not have enough income to replace their preretirement income, and will grow more dependent on social assistance programs for support, and

WHEREAS, as federal programs like Social Security and Medicare face an uncertain future and enrollment in traditional defined benefit plans, such as pension plans, decreases, there is a new urgency to ensure that the residents of this state have



153682

69 opportunities to increase their retirement savings, NOW,
70 THEREFORE,



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/07/2017	.	
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	.	

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

Senate Substitute for Amendment (153682) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (3) through (9) of section 121.051, Florida Statutes, are redesignated as subsections (4) through (10), respectively, and a new subsection (3) is added to that section, to read:

121.051 Participation in the system.—



129532

11 (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.—

12 (a) Employees initially enrolled on or after January 1,
13 2017, in positions covered by the Elected Officers' Class or the
14 Senior Management Service Class are compulsory members of the
15 investment plan, except those eligible to withdraw from the
16 system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those
17 eligible for optional retirement programs under paragraph
18 (1)(a), paragraph (2)(c), or s. 121.35. Investment plan
19 membership continues if there is subsequent employment in a
20 position covered by another membership class. Membership in the
21 pension plan is not permitted except as provided in s.
22 121.591(2). Employees initially enrolled on or after January 1,
23 2017, are not eligible to use the election opportunity specified
24 in s. 121.4501(4)(g).

25 (b) Employees initially enrolled in the Florida Retirement
26 System before January 1, 2017, may retain their membership in
27 the pension plan or investment plan and are eligible to use the
28 election opportunity specified in s. 121.4501(4)(g).

29 (c) Employees initially enrolled in the Florida Retirement
30 System on or after January 1, 2017, whose first regularly
31 established positions are not covered by the Elected Officers'
32 Class or the Senior Management Service Class and who are
33 subsequently employed in positions covered by the Elected
34 Officers' Class or the Senior Management Service Class shall
35 retain their membership in the pension plan or investment plan
36 and are eligible to use the election opportunity specified in s.
37 121.4501(4)(g).

38 (d) Employees eligible to withdraw from the system under s.
39 121.052(3)(d) or s. 121.055(1)(b)2. may choose to withdraw from



129532

the system or to participate in the investment plan as provided in those sections. Employees eligible for optional retirement programs under paragraph (2)(c) or s. 121.35 may choose to participate in the optional retirement program or the investment plan as provided in this section. Eligible employees required to participate pursuant to paragraph (1)(a) in the optional retirement program as provided under s. 121.35 must participate in the investment plan when employed in a position not eligible for the optional retirement program.

Section 2. Paragraph (c) of subsection (3) of section 121.052, Florida Statutes, is amended to read:

121.052 Membership class of elected officers.—

(3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July 1, 1990, participation in the Elected Officers' Class shall be compulsory for elected officers listed in paragraphs (2)(a)-(d) and (f) assuming office on or after said date, unless the elected officer elects membership in another class or withdraws from the Florida Retirement System as provided in paragraphs (3)(a)-(d):

(c) Before January 1, 2017, any elected officer may, within 6 months after assuming office, or within 6 months after this act becomes a law for serving elected officers, elect membership in the Senior Management Service Class as provided in s. 121.055 in lieu of membership in the Elected Officers' Class. Any such election made by a county elected officer shall have no effect upon the statutory limit on the number of nonelective full-time positions that may be designated by a local agency employer for inclusion in the Senior Management Service Class under s. 121.055(1)(b)1.



129532

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, through December 31, 2016:

1. Except as provided in subparagraphs ~~subparagraph~~ 3. and 4., 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 subparagraphs ~~subparagraph~~ 3. and 4., 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 lieu of membership in the Senior Management Service Class.

3. A retiree of a state-administered retirement system who



129532

is initially reemployed in a regularly established position on or after July 1, 2010, 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.

4. On or after January 1, 2017, an elected officer eligible for membership in the Elected Officers' Class may not be enrolled in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program as provided in subsection (6).

(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 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, 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 by reason of initial employment commencing after February 1,



129532

1987, may, within 90 days after the date of commencing employment, elect to participate in the optional annuity program. Such election 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 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 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 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.

5. Effective from July 1, 2002, through September 30, 2002, an active employee in a regularly established position who has



129532

156 elected to participate in the Senior Management Service Optional
157 Annuity Program has one opportunity to choose to move from the
158 Senior Management Service Optional Annuity Program to the
159 Florida Retirement System Pension Plan.

160 a. The election must be made in writing and must be filed
161 with the department and the personnel officer of the employer
162 before October 1, 2002, or, in the case of an active employee
163 who is on a leave of absence on July 1, 2002, within 90 days
164 after the conclusion of the leave of absence. This election is
165 irrevocable.

166 b. The employee shall receive service credit under the
167 pension plan equal to his or her years of service under the
168 Senior Management Service Optional Annuity Program. The cost for
169 such credit is the amount representing the present value of that
170 employee's accumulated benefit obligation for the affected
171 period of service.

172 c. The employee must transfer the total accumulated
173 employer contributions and earnings on deposit in his or her
174 Senior Management Service Optional Annuity Program account. If
175 the transferred amount is not sufficient to pay the amount due,
176 the employee must pay a sum representing the remainder of the
177 amount due. The employee may not retain any employer
178 contributions or earnings from the Senior Management Service
179 Optional Annuity Program account.

180 6. A retiree of a state-administered retirement system who
181 is initially reemployed on or after July 1, 2010, may not renew
182 membership in the Senior Management Service Optional Annuity
183 Program.

184 7. Effective January 1, 2017, the Senior Management Service



129532

Optional Annuity Program is closed to new members. Members enrolled in the Senior Management Service Optional Annuity Program on or before January 1, 2017, may retain their membership in the annuity program.

Section 4. Subsection (1), paragraph (g) of subsection (4), subsection (8), and paragraphs (b) and (c) of subsection (10) of section 121.4501, Florida Statutes, are amended, and paragraph (h) is added to subsection (4) of that section, to read:

121.4501 Florida Retirement System Investment Plan.—

(1) ESTABLISHMENT.—

(a) The Trustees of the State Board of Administration shall establish a defined contribution program called the “Florida Retirement System Investment Plan” or “investment plan” for members of the Florida Retirement System under which retirement benefits will be provided for:

1. Eligible employees who elect to participate in the program; and

2. Employees initially enrolled on or after January 1, 2017, in positions covered by the Elected Officers’ Class and the Senior Management Service Class who are compulsory members of the investment plan unless otherwise eligible to withdraw from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or to participate in an optional retirement program under s. 121.051(1)(a) or (2)(c), or s. 121.35. Investment plan membership continues if the member is subsequently employed in a position covered by another membership class.

(b)1. Employees initially enrolled on or after January 1, 2017, in positions covered by the Elected Officers’ Class and the Senior Management Service Class may retain their membership



129532

in the pension plan or investment plan and are eligible to use the election opportunity specified in s. 121.4501(4)(g).

2. Employees initially enrolled in the Florida Retirement System on or after January 1, 2017, whose initial employment is in a regularly established position that is not covered by the Elected Officers' Class or the Senior Management Service Class who are subsequently employed in a position covered by the Elected Officers' Class or the Senior Management Service Class shall retain their membership in the pension plan or the investment plan and are eligible to use the election opportunity specified in paragraph (4)(g).

3. Employees eligible to withdraw from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2. may choose to withdraw from the system or participate in the investment plan as provided in those sections. Employees eligible for optional retirement programs under s. 121.051(2)(c) or s. 121.35 may choose to participate in the optional retirement program or the investment plan. Eligible employees required to participate in the optional retirement program pursuant to s. 121.051(1)(a) as provided under s. 121.35 must participate in the investment plan when employed in a position not eligible for the optional retirement program.

(c) The retirement benefits shall be provided through member-directed investments, in accordance with s. 401(a) of the Internal Revenue Code and related regulations. The employer and employee shall make contributions, as provided in this section and ss. 121.571 and 121.71, to the Florida Retirement System Investment Plan Trust Fund toward the funding of benefits.

(4) PARTICIPATION; ENROLLMENT.—



129532

(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. This paragraph is not applicable to compulsory investment plan members enrolled under paragraph (h).

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



129532

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 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 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)-(d), and the ability of a current employee to have an option to later



129532

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 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.

(h)1. All employees initially enrolled on or after January 1, 2017, in positions covered by the Elected Officers' Class or the Senior Management Service Class are compulsory members of the investment plan, except those eligible to withdraw from the



129532

system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those eligible for optional retirement programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35.

2. Employees eligible to withdraw from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2. may choose to withdraw from the system or to participate in the investment plan as provided in those sections. Employees eligible for optional retirement programs under s. 121.051(2)(c) or s. 121.35, except as provided in s. 121.051(1)(a), may choose to participate in the optional retirement program or the investment plan as provided in those sections. Investment plan membership continues if there is subsequent employment in a position covered by another membership class. Membership in the pension plan is not permitted except as provided in s. 121.591(2).

3. Employees initially enrolled in the Florida Retirement System on or before January 1, 2017, may retain their membership in the pension plan or investment plan and are eligible to use the election opportunity specified in paragraph (g).

4. Employees initially enrolled in the Florida Retirement System on or after January 1, 2017, and whose initial employment is in a regularly established position that is not covered by the Elected Officers' Class or the Senior Management Service Class who are subsequently employed in a position covered by the Elected Officers' Class or the Senior Management Service Class shall retain their membership in the pension plan or investment plan and are eligible to use the election opportunity specified in paragraph (g).

5. Employees initially enrolled in positions covered by the Elected Officers' class or the Senior Management Service Class



129532

on or after January 1, 2017, are not permitted to use the election opportunity specified in paragraph (g).

6. The amount of retirement contributions paid by the employee and employer, as required under s. 121.72, shall be placed in a default fund as designated by the state board at which time the member may move the contributions from the default fund to other funds provided in the investment plan.

(8) INVESTMENT PLAN ADMINISTRATION.—The investment plan shall be administered by the state board and affected employers. The state board may require oaths, by affidavit or otherwise, and acknowledgments from persons in connection with the administration of its statutory duties and responsibilities for the investment plan. An oath, by affidavit or otherwise, may not be required of a member at the time of enrollment.

Acknowledgment of an employee's election to participate in the program shall be no greater than necessary to confirm the employee's election, except for members initially enrolled on or after January 1, 2017, as provided in paragraph (4)(h). The state board shall adopt rules to carry out its statutory duties with respect to administering the investment plan, including establishing the roles and responsibilities of affected state, local government, and education-related employers, the state board, the department, and third-party contractors. The department shall adopt rules necessary to administer the investment plan in coordination with the pension plan and the disability benefits available under the investment plan.

(a)1. The state board shall select and contract with a third-party administrator to provide administrative services if those services cannot be competitively and contractually



129532

provided by the division. With the approval of the state board, the third-party administrator may subcontract to provide components of the administrative services. As a cost of administration, the state board may compensate any such contractor for its services, in accordance with the terms of the contract, as is deemed necessary or proper by the board. The third-party administrator may not be an approved provider or be affiliated with an approved provider.

2. These administrative services may include, but are not limited to, enrollment of eligible employees, collection of employer and employee contributions, disbursement of contributions to approved providers in accordance with the allocation directions of members; services relating to consolidated billing; individual and collective recordkeeping and accounting; asset purchase, control, and safekeeping; and direct disbursement of funds to and from the third-party administrator, the division, the state board, employers, members, approved providers, and beneficiaries. This section does not prevent or prohibit a bundled provider from providing any administrative or customer service, including accounting and administration of individual member benefits and contributions; individual member recordkeeping; asset purchase, control, and safekeeping; direct execution of the member's instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to member account information; or periodic reporting to members, at least quarterly, on account balances and transactions, if these services are authorized by the state board as part of the contract.

(b)1. The state board shall select and contract with one or



129532

more organizations to provide educational services. With approval of the state board, the organizations may subcontract to provide components of the educational services. As a cost of administration, the state board may compensate any such contractor for its services in accordance with the terms of the contract, as is deemed necessary or proper by the board. The education organization may not be an approved provider or be affiliated with an approved provider.

2. Educational services shall be designed by the state board and department to assist employers, eligible employees, members, and beneficiaries in order to maintain compliance with United States Department of Labor regulations under s. 404(c) of the Employee Retirement Income Security Act of 1974 and to assist employees in their choice of pension plan or investment plan retirement alternatives. Educational services include, but are not limited to, disseminating educational materials; providing retirement planning education; explaining the pension plan and the investment plan; and offering financial planning guidance on matters such as investment diversification, investment risks, investment costs, and asset allocation. An approved provider may also provide educational information, including retirement planning and investment allocation information concerning its products and services.

(c)1. In evaluating and selecting a third-party administrator, the state board shall establish criteria for evaluating the relative capabilities and qualifications of each proposed administrator. In developing such criteria, the state board shall consider:

a. The administrator's demonstrated experience in providing



129532

administrative services to public or private sector retirement systems.

b. The administrator's demonstrated experience in providing daily valued recordkeeping to defined contribution programs.

c. The administrator's ability and willingness to coordinate its activities with employers, the state board, and the division, and to supply to such employers, the board, and the division the information and data they require, including, but not limited to, monthly management reports, quarterly member reports, and ad hoc reports requested by the department or state board.

d. The cost-effectiveness and levels of the administrative services provided.

e. The administrator's ability to interact with the members, the employers, the state board, the division, and the providers; the means by which members may access account information, direct investment of contributions, make changes to their accounts, transfer moneys between available investment vehicles, and transfer moneys between investment products; and any fees that apply to such activities.

f. Any other factor deemed necessary by the state board.

2. In evaluating and selecting an educational provider, the state board shall establish criteria under which it shall consider the relative capabilities and qualifications of each proposed educational provider. In developing such criteria, the state board shall consider:

a. Demonstrated experience in providing educational services to public or private sector retirement systems.

b. Ability and willingness to coordinate its activities



129532

with the employers, the state board, and the division, and to supply to such employers, the board, and the division the information and data they require, including, but not limited to, reports on educational contacts.

c. The cost-effectiveness and levels of the educational services provided.

d. Ability to provide educational services via different media, including, but not limited to, the Internet, personal contact, seminars, brochures, and newsletters.

e. Any other factor deemed necessary by the state board.

3. The establishment of the criteria shall be solely within the discretion of the state board.

(d) The state board shall develop the form and content of any contracts to be offered under the investment plan. In developing the contracts, the board shall consider:

1. The nature and extent of the rights and benefits to be afforded in relation to the contributions required under the plan.

2. The suitability of the rights and benefits provided and the interests of employers in the recruitment and retention of eligible employees.

(e)1. The state board may contract for professional services, including legal, consulting, accounting, and actuarial services, deemed necessary to implement and administer the investment plan. The state board may enter into a contract with one or more vendors to provide low-cost investment advice to members, supplemental to education provided by the third-party administrator. All fees under any such contract shall be paid by those members who choose to use the services of the vendor.



129532

2. The department may contract for professional services, including legal, consulting, accounting, and actuarial services, deemed necessary to implement and administer the investment plan in coordination with the pension plan. The department, in coordination with the state board, may enter into a contract with the third-party administrator in order to coordinate services common to the various programs within the Florida Retirement System.

(f) The third-party administrator may not receive direct or indirect compensation from an approved provider, except as specifically provided for in the contract with the state board.

(g) The state board shall receive and resolve member complaints against the program, the third-party administrator, or any program vendor or provider; shall resolve any conflict between the third-party administrator and an approved provider if such conflict threatens the implementation or administration of the program or the quality of services to employees; and may resolve any other conflicts. The third-party administrator shall retain all member records for at least 5 years for use in resolving any member conflicts. The state board, the third-party administrator, or a provider is not required to produce documentation or an audio recording to justify action taken with regard to a member if the action occurred 5 or more years before the complaint is submitted to the state board. It is presumed that all action taken 5 or more years before the complaint is submitted was taken at the request of the member and with the member's full knowledge and consent. To overcome this presumption, the member must present documentary evidence or an audio recording demonstrating otherwise.



129532

(10) EDUCATION COMPONENT.—

(b) The education component must provide system members with impartial and balanced information about plan choices, except for members initially enrolled on or after January 1, 2017, as provided in paragraph (4) (h). The education component must involve multimedia formats. Program comparisons must, to the greatest extent possible, be based upon the retirement income that different retirement programs may provide to the member. The state board shall monitor the performance of the contract to ensure that the program is conducted in accordance with the contract, applicable law, and the rules of the state board.

(c) The state board, in coordination with the department, shall provide for an initial and ongoing transfer education component to provide system members, except for members initially enrolled on or after January 1, 2017, as provided in paragraph (4) (h), with information necessary to make informed plan choice decisions. The transfer education component must include, but is not limited to, information on:

1. The amount of money available to a member to transfer to the defined contribution program.

2. The features of and differences between the pension plan and the defined contribution program, both generally and specifically, as those differences may affect the member.

3. The expected benefit available if the member were to retire under each of the retirement programs, based on appropriate alternative sets of assumptions.

4. The rate of return from investments in the defined contribution program and the period of time over which such rate



129532

of return must be achieved to equal or exceed the expected
monthly benefit payable to the member under the pension plan.

5. The historical rates of return for the investment
alternatives available in the defined contribution programs.

6. The benefits and historical rates of return on
investments available in a typical deferred compensation plan or
a typical plan under s. 403(b) of the Internal Revenue Code for
which the employee may be eligible.

7. The program choices available to employees of the State
University System and the comparative benefits of each available
program, if applicable.

8. Payout options available in each of the retirement
programs.

Section 5. Section 238.072, Florida Statutes, is amended to
read:

238.072 Special service provisions for extension
personnel.—All state and county cooperative extension personnel
holding appointments by the United States Department of
Agriculture for extension work in agriculture and home economics
in this state who are joint representatives of the University of
Florida and the United States Department of Agriculture, as
provided in s. 121.051(8) ~~s. 121.051(7)~~, who are members of the
Teachers' Retirement System, chapter 238, and who are prohibited
from transferring to and participating in the Florida Retirement
System, chapter 121, may retire with full benefits upon
completion of 30 years of creditable service and shall be
considered to have attained normal retirement age under this
chapter, any law to the contrary notwithstanding. In order to
comply with the provisions of s. 14, Art. X of the State



129532

Constitution, any liability accruing to the Florida Retirement System Trust Fund as a result of the provisions of this section shall be paid on an annual basis from the General Revenue Fund.

Section 6. Subsection (11) of section 413.051, Florida Statutes, is amended to read:

413.051 Eligible blind persons; operation of vending stands.—

(11) Effective July 1, 1996, blind licensees who remain members of the Florida Retirement System pursuant to s. 121.051(7) (b) 1. ~~s. 121.051(6) (b) 1.~~ shall pay any unappropriated retirement costs from their net profits or from program income. Within 30 days after the effective date of this act, each blind licensee who is eligible to maintain membership in the Florida Retirement System under s. 121.051(7) (b) 1. ~~s. 121.051(6) (b) 1.~~, but who elects to withdraw from the system as provided in s. 121.051(7) (b) 3. ~~s. 121.051(6) (b) 3.~~, must, on or before July 31, 1996, notify the Division of Blind Services and the Department of Management Services in writing of his or her election to withdraw. Failure to timely notify the divisions shall be deemed a decision to remain a compulsory member of the Florida Retirement System. However, if, at any time after July 1, 1996, sufficient funds are not paid by a blind licensee to cover the required contribution to the Florida Retirement System, that blind licensee shall become ineligible to participate in the Florida Retirement System on the last day of the first month for which no contribution is made or the amount contributed is insufficient to cover the required contribution. For any blind licensee who becomes ineligible to participate in the Florida Retirement System as described in this subsection, no creditable



129532

service shall be earned under the Florida Retirement System for any period following the month that retirement contributions ceased to be reported. However, any such person may participate in the Florida Retirement System in the future if employed by a participating employer in a covered position.

Section 7. 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 8. This act shall apply retroactively to January 1, 2017.

Section 9. This act shall take effect upon becoming a law.

===== 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 the Florida Retirement System;
amending s. 121.051, F.S.; providing for compulsory
membership in the Florida Retirement System Investment
Plan for employees in the Elected Officers' Class or



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the Senior Management Service Class initially enrolled after a specified date; amending s. 121.052, F.S.; prohibiting members of the Elected Officers' Class from joining the Senior Management Service Class after a specified date; amending s. 121.055, F.S.; prohibiting an elected official eligible for membership in the Elected Officers' Class from enrolling in the Senior Management Service Class or in the Senior Management Service Optional Annuity Program; closing the Senior Management Optional Annuity Program to new members effective on or after a specified date; amending s. 121.4501, F.S.; requiring certain employees initially enrolled in the Florida Retirement System on or after a specified date to be compulsory members of the investment plan; conforming provisions to changes made by the act; amending ss. 238.072 and 413.051, F.S.; conforming cross-references; providing that the act fulfills an important state interest; providing for retroactive application; providing an effective date.



660442

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Before line 17
insert:

Section 1. The Office of Program Policy Analysis and Government Accountability shall conduct a comprehensive study of the potential long-term impact on the financial condition of the Florida Retirement System, including estimates of unfunded actuarial liabilities, if the percentage of employees enrolling in the defined contribution plan increases as opposed to



660442

enrolling in the defined benefit plan. The State Board of
Administration and the Division of Retirement of the Department
of Management Services shall provide technical assistance to the
office, as requested. The office shall submit a report of its
findings to the Governor, the President of the Senate, and the
Speaker of the House of Representatives by June 30, 2018. Upon
submission of the report, this section shall expire.

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

And the title is amended as follows:

Delete lines 2 - 3

and insert:

An act relating to the Florida Retirement System;
requiring the Office of Program Policy Analysis and
Government Accountability to conduct a study of the
potential long-term impact on the financial condition
of the system based on changes in enrollment in the
defined contribution and defined benefit plans;
requiring the State Board of Administration and the
Division of Retirement of the Department of Management
Services to provide technical assistance, upon
request; requiring the office to submit a report to
the Governor and the Legislature by a specified date;
providing for expiration; amending s. 121.051,

By Senator Brandes

24-00489A-17

2017428__

A bill to be entitled
An act relating to local government participation in
the Florida Retirement System; amending s. 121.051,
F.S.; providing that employees of a governing body of
a municipality, metropolitan planning organization, or
special district that applies to participate in the
Florida Retirement System on or after a certain date
may enroll only in the defined contribution program;
authorizing enrollment in the pension plan for
employees of governing bodies that have elected or
applied to participate in the Florida Retirement
System before a certain date; providing for
retroactive application; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section
121.051, Florida Statutes, is amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(b)1. The governing body of any municipality, metropolitan
planning organization, or special district in the state may
elect to participate in the Florida Retirement System upon
proper application to the administrator and may cover all of its
units as approved by the Secretary of Health and Human Services
and the administrator. The department shall adopt rules
establishing procedures for the submission of documents
necessary for such application. Before being approved for
participation in the system, the governing body of a
municipality, metropolitan planning organization, or special
district that has a local retirement system must submit to the
administrator a certified financial statement showing the

24-00489A-17

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condition of the local retirement system within 3 months before the proposed effective date of membership in the Florida Retirement System. The statement must be certified by a recognized accounting firm that is independent of the local retirement system. All required documents necessary for extending Florida Retirement System coverage must be received by the department for consideration at least 15 days before the proposed effective date of coverage. If the municipality, metropolitan planning organization, or special district does not comply with this requirement, the department may require that the effective date of coverage be changed.

2. A municipality, metropolitan planning organization, or special district that has an existing retirement system covering the employees in the units that are to be brought under the Florida Retirement System may participate only after holding a referendum in which all employees in the affected units have the right to participate. Only those employees electing coverage under the Florida Retirement System by affirmative vote in the referendum are eligible for coverage under this chapter, and those not participating or electing not to be covered by the Florida Retirement System shall remain in their present systems and are not eligible for coverage under this chapter. After the referendum is held, all future employees are compulsory members of the Florida Retirement System.

3. At the time of joining the Florida Retirement System, the governing body of a municipality, metropolitan planning organization, or special district complying with subparagraph 1. may elect to provide, or not provide, benefits based on past service of officers and employees as described in s. 121.081(1).

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62 However, if such employer elects to provide past service
63 benefits, such benefits must be provided for all officers and
64 employees of its covered group.

65 4. Once this election is made and approved it may not be
66 revoked, except pursuant to subparagraphs 6. and 7. ~~5. and 6.~~,
67 and all present officers and employees electing coverage and all
68 future officers and employees are compulsory members of the
69 Florida Retirement System.

70 5. Enrollment in the pension plan is closed to the
71 employees of a governing body of any municipality, metropolitan
72 planning organization, or special district that submits an
73 application to the administrator to participate in the Florida
74 Retirement System pursuant to this paragraph on or after January
75 1, 2017. On or after January 1, 2017, such employees shall be
76 enrolled in the defined contribution program established
77 pursuant to s. 121.4501. Employees of a governing body
78 participating, or that has applied to participate, in the
79 Florida Retirement System before January 1, 2017, may continue
80 or choose enrollment in the pension plan.

81 ~~6.5.~~ Subject to subparagraph 7. ~~6.~~, the governing body of a
82 hospital licensed under chapter 395 which is governed by the
83 governing body of a special district as defined in s. 189.012 or
84 by the board of trustees of a public health trust created under
85 s. 154.07, hereinafter referred to as "hospital district," and
86 which participates in the Florida Retirement System, may elect
87 to cease participation in the system with regard to future
88 employees in accordance with the following:

89 a. No more than 30 days and at least 7 days before adopting
90 a resolution to partially withdraw from the system and establish

24-00489A-17

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an alternative retirement plan for future employees, a public hearing must be held on the proposed withdrawal and proposed alternative plan.

b. From 7 to 15 days before such hearing, notice of intent to withdraw, specifying the time and place of the hearing, must be provided in writing to employees of the hospital district proposing partial withdrawal and must be published in a newspaper of general circulation in the area affected, as provided by ss. 50.011-50.031. Proof of publication must be submitted to the Department of Management Services.

c. The governing body of a hospital district seeking to partially withdraw from the system must, before such hearing, have an actuarial report prepared and certified by an enrolled actuary, as defined in s. 112.625, illustrating the cost to the hospital district of providing, through the retirement plan that the hospital district is to adopt, benefits for new employees comparable to those provided under the system.

d. Upon meeting all applicable requirements of this subparagraph, and subject to subparagraph 7.6-, partial withdrawal from the system and adoption of the alternative retirement plan may be accomplished by resolution duly adopted by the hospital district board. The hospital district board must provide written notice of such withdrawal to the division by mailing a copy of the resolution to the division, postmarked by December 15, 1995. The withdrawal shall take effect January 1, 1996.

7.6- Following the adoption of a resolution under subparagraph 6.d. ~~5.d.~~, all employees of the withdrawing hospital district who were members of the system before January

24-00489A-17

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1, 1996, shall remain as members of the system for as long as they are employees of the hospital district, and all rights, duties, and obligations between the hospital district, the system, and the employees remain in full force and effect. Any employee who is hired or appointed on or after January 1, 1996, may not participate in the system, and the withdrawing hospital district has no obligation to the system with respect to such employees.

Section 2. This act shall apply retroactively to January 1, 2017.

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



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Committee on
Community Affairs

Subject: Committee Agenda Request

Date: February 6th, 2017

I respectfully request that **Senate Bill #428**, relating to **Local Government Participation in the Florida Retirement System**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

3/6/17
Meeting Date

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

SB 428
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title _____

Address 301 S. Bronough

Street

Phone 222 9684

Tallahassee FL
City State

32302
Zip

Email KConn@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17
Meeting Date

428
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable) _____

Name CHRISTOPHER EMMANUEL, POLICY DIRECTOR

Job Title FLORIDA CHAMBER OF COMMERCE

Address 136 S. BRANOUGH
Street

Phone _____

TLH FL 32301
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA CHAMBER OF COMMERCE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17
Meeting Date

428
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Andrew Hosek

Job Title Analyst

Address 200 W College Ave
Street

Phone _____

Tallahassee FL
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

MARCH 6, 2017
Meeting Date

SB-428
Bill Number (if applicable)

Topic FL. RETIREMENT SYSTEM

Amendment Barcode (if applicable)

Name J. B. CLARK

Job Title LOBBYIST

Address 2071 CYNTHIA DRIVE
Street

Phone 850-556-8143

TALLAHASSEE, FL 32303
City State Zip

Email JBCCLARK5@EARTHLINK.NET

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ELECTRICAL WORKERS ASSN.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 428
FINAL ACTION: Favorable
MEETING DATE: Monday, March 6, 2017
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 534

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Public Works Projects

DATE: March 7, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			GO	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 534 prohibits the state and its political subdivisions that contract for public works projects from imposing restrictive conditions on certain contractors, subcontractors, or material suppliers or carriers, except as otherwise required by federal or state law. Specifically, the state or political subdivision that contracts for a public works project may not require that a contractor, subcontractor, or material supplier or carrier engaged in the project:

- Pay employees a predetermined amount of wages or prescribe any wage rate;
- Provide employees a specified type, amount, or rate of employee benefits;
- Control, limit, or expand staffing; or
- Recruit, train, or hire employees from a designated, restricted, or single source.

Public works projects include only those projects for which 50 percent or more of the cost will be paid from state-appropriated funds.

The bill also prohibits the state or a political subdivision from restricting a qualified contractor, subcontractor, or material supplier or carrier from submitting a bid on any public works project or being awarded any contract, subcontract, material order, or carrying order.

II. Present Situation:

The Consultants' Competitive Negotiation Act

In 1972, Congress passed the Brooks Act (Public Law 92-582), which codified Qualifications-Based Selection (QBS) as the federal procurement method for architect and engineering services.

The QBS process entails first soliciting statements of qualifications from licensed architectural and engineering providers, selecting the most qualified respondent, and then negotiating a fair and reasonable price. The vast majority of states currently require a QBS process when selecting the services of architectural and engineering professionals.¹

The Florida Legislature enacted the Consultants' Competitive Negotiation Act (CCNA) in 1973,² which specifies the necessary procedures when procuring professional services by an agency.³

Currently, the CCNA, codified in s. 287.055, F.S., specifies the process that state and local government agencies must follow when procuring the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper. The CCNA requires that state agencies publicly announce, in a consistent and uniform manner, each occasion when professional services must be purchased for one of the following:⁴

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

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

The CCNA provides a two-phase selection process.⁵ In the first phase, the “competitive selection,” the agency evaluates the qualifications and past performance of no fewer than three bidders. The agency selects the bidders, ranked in order of preference, and considers the most highly qualified to perform the required services. The CCNA requires consideration of several factors in determining the most highly qualified bidders.⁶

The CCNA prohibits the agency from requesting, accepting, and considering, during the selection process, proposals for the compensation to be paid.⁷ Section 287.055(2)(d), F.S., defines the term “compensation” to mean the amount paid by the agency for professional services regardless of whether stated as compensation or as other types of rates.

In the second phase, the “competitive negotiation,” the agency negotiates compensation with the most qualified of the minimum three selected firms for professional services at compensation, which the agency determines, is “fair, competitive, and reasonable.”⁸ If the agency cannot

¹ Forty-six states use this process. American Council of Engineering Companies, Qualifications-Based Selection Resource Center, available at <http://www.acec.org/advocacy/qbs/> (last visited Feb. 24, 2017).

² Chapter 73-19, Laws of Fla.

³ Section 287.055(2)(b), F.S., defines “agency” as the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term agency does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under s. 380.06, F.S., or ss. 163.3220-163.3243, F.S.

⁴ Section 287.055(3)(a)1., F.S.

⁵ Sections 287.055(4) and (5), F.S.

⁶ Section 287.055(4)(b), F.S., requires agencies to consider the following factors: the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and, the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

⁷ Section 287.055(4)(b), F.S.

⁸ Section 287.055(5)(a), F.S.

negotiate a satisfactory contract, the agency must formally terminate negotiations with that firm and must then negotiate with the second most qualified firm.⁹ The agency must negotiate with the third most qualified firm if the negotiation with the second most qualified firm fails to produce a satisfactory contract.¹⁰ If the agency cannot negotiate a satisfactory contract with any of the three selected, the agency must select additional firms in order of their competence and qualifications and continue negotiations until it reaches a contract.¹¹ Once negotiations with a firm are terminated, the agency cannot resume negotiations with that firm for the project.

In October 2011, the Attorney General opined that local governments could not create a hybrid procurement process for awarding projects and are limited to utilizing statutorily defined procedures.¹²

Procurement of Construction Services for Public Property and Publicly Owned Buildings

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. Section 255.29, F.S., requires the Department of Management Services (DMS) to establish, by rule,¹³ the following construction contract procedures for:

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

These procedures must include, but are not limited to:¹⁴

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

⁹ Section 287.055(5)(b), F.S.

¹⁰ *Id.*

¹¹ Section 287.055(5)(c), F.S.

¹² Op. Att’y Gen. Fla. 2011-21 (2011).

¹³ Chapter 60D-5, F.A.C., establishes the procedures for s. 255.29, F.S., which requires procedures be followed in advertising for bids for construction contracts; in determining the eligibility of potential bidders to submit proposals for construction contracts; in awarding construction contracts; for waiver of non-material bid deviations; for rejection of bids; for disqualification of contractors; and in requesting authority to negotiate contracts and in negotiating contracts.

¹⁴ Section 255.29(4)(a)-(d), F.S.

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

The state must competitively bid contracts for construction projects that it projects to cost in excess of \$200,000.¹⁵ County, municipal, or other political subdivision contracts for construction projects that are projected to cost in excess of \$200,000 also must be bid competitively.¹⁶ Counties, municipalities, special districts,¹⁷ or other political subdivisions seeking to construct or improve a public building must bid the project competitively if the projected cost is in excess of \$300,000.¹⁸

The solicitation of competitive bids or proposals for any state construction project with anticipated costs of more than \$200,000 must be advertised publicly in the Florida Administrative Register (FAR) at least 21 days prior to the established bid opening.¹⁹ If the construction project is projected to exceed \$500,000, the advertisement must be published in the FAR at least 30 days prior to the bid opening, and at least once in a newspaper of general circulation in the county where the project is located 30 days prior to the bid opening.²⁰

Department of Management Services Convicted Vendors and Discriminatory Vendor Lists

The DMS is required to keep a convicted vendor list²¹ that identifies vendors who have committed a public entity crime.²² If a vendor is included on the convicted vendor list, the vendor may not do business with the state²³ in excess of \$35,000 as provided in s. 287.017(2), F.S., for a period of 36 months following placement on the list.

The DMS also maintains a discriminatory vendor list that identifies vendors where a determination of liability by a state circuit court or a federal district court for a violation of any state or federal law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion.²⁴ If DMS places a vendor on the discriminatory vendor list, the vendor may not do business with the state, and the state may not accept any bids or proposals or transact business with such vendor for a period of 36 months following placement on the list.²⁵

¹⁵ Section 255.0525(1), F.S. Also, see Rules 60D-5.002(2) and 60D-5.0073, F.A.C.

¹⁶ Section 255.0525(2), F.S.

¹⁷ Section 255.20(1), F.S. (Special district as defined in ch. 189, F.S.).

¹⁸ *Id.* For electrical work, local governments must bid projects competitively estimated to cost more than \$75,000.

¹⁹ Section 255.0525(1), F.S.

²⁰ *Id.* Similar publishing provisions apply to construction projects projected to cost more than \$200,000 for counties, municipalities, and political subdivisions. See Section 255.0525(2), F.S.

²¹ Section 287.133, F.S., and Rule 60A-1.006(5), F.A.C.

²² Section 287.133(1)(g), F.S., defines “public entity crime” as a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

²³ Section 287.134(2)(a), F.S. A vendor placed on the list may not submit bids or proposals to a public entity on a contract to provide goods and services; a contract for construction or repair of a public building or public work; or leases of real property. The vendor may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant with a public entity, and may not transact business with any public entity.

²⁴ Section 287.134, F.S.

²⁵ Section 287.134(2), F.S.

Preference for Employment of State Residents in Construction Contracts Funded By State Funds

Florida law provides a preference for the employment of state residents in construction contracts funded by state funds.²⁶ Such contracts must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work if state residents have substantially equal qualifications²⁷ to those of non-residents.²⁸ If a construction contract is funded by local funds, the contract may contain such a provision.²⁹ In addition, a contractor required to employ state residents must contact the Department of Economic Opportunity to post the contractor's employment needs in the state's job bank system.³⁰

Department of Transportation Construction Projects

Chapter 337, F.S., governs contracting by the Department of Transportation (DOT). In order for a person to bid for a construction contract in excess of \$250,000, DOT must certify such person as qualified.³¹ Certification is also required to bid on road, bridge, or public transportation construction projects of more than \$250,000.³² The purpose of certification is to ensure professional and financial competence relating to the performance of construction contracts by evaluating bidders "with respect to equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification."³³

An applicant seeking certification of qualification must include its latest annual financial statement completed within the last 12 months.³⁴ If the applicants submits an annual financial statement that was completed more than 4 months prior to the date on which DOT receives the application, then the applicant must submit an interim financial statement and an updated application.³⁵ A certified public accountant must audit each annual or interim financial statement.³⁶ If the applicant meets the qualifications, DOT issues a certificate of qualification that is valid for 18 months after the date of the applicant's financial statement, or a shorter period as DOT prescribes.³⁷ DOT may revoke such certificate of qualification for a contractor who was delinquent on a previously awarded contract.³⁸

²⁶ Section 255.099(1), F.S.

²⁷ Section 255.099(1)(a), F.S., defines "substantially equal qualifications" as the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons.

²⁸ Section 255.099(1), F.S.

²⁹ *Id.*

³⁰ Section 255.099(1)(b), F.S.

³¹ Section 337.14(1), F.S. and ch. 14-22, F.A.C.

³² Section 337.14(2), F.S.

³³ Section 337.14(1), F.S.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Section 337.14(4), F.S.

³⁸ Section 337.16, F.S.

DOT does not prohibit a qualified, licensed or certified contractor from bidding. However, a contract may not be awarded if the bid is determined to be irregular or non-responsive. DOT does require training for certain work categories, such as bridgework and other technical road and bridge areas.

Federal Labor and Wage Laws

The National Labor Relations Act of 1935³⁹ and the Labor Management Relations Act of 1947⁴⁰ constitute a comprehensive scheme of regulations guaranteeing employees the right to organize, to bargain collectively through chosen representatives, and to engage in concerted activities to secure their rights in industries involved in or affected by interstate commerce.

The Fair Labor Standards Act (FLSA) establishes a federal minimum wage, which is the lowest hourly wage that can be paid in the United States.⁴¹ A state may set the rate higher than the federal minimum, but not lower.⁴² It also requires employers to pay time and a half to its employees for overtime hours worked,⁴³ and establishes standards for recordkeeping⁴⁴ and child labor.⁴⁵ Over 135 million workers are covered under the act;⁴⁶ most jobs are covered by the FLSA, but not all jobs are covered. In addition, some jobs are covered, but are considered “exempt” from the FLSA overtime requirements.⁴⁷

On February 12, 2014, President Obama signed Executive Order 13658, which establishes a minimum wage for certain federal contractors.⁴⁸ The Executive Order requires parties who contract with the federal government to pay workers performing work on or in connection with covered federal contracts at least \$10.10 per hour beginning on January 1, 2015. Beginning January 1, 2016, and annually thereafter, employer must pay such workers an amount determined by the Secretary of Labor in accordance with the Executive Order. The order stated that “[r]aising the pay of low-wage workers increases their morale and the productivity and quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs.”⁴⁹

³⁹ 29 U.S.C. ss. 151 to 169 (encouraging the practice and procedure of collective bargaining and protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection).

⁴⁰ 29 U.S.C. ss. 141 to 187 (prescribing the rights of both employees and employers in their relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the rights of the other, to protect the rights of individual employees in their relations with labor organizations whose activities affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce).

⁴¹ 29 U.S.C. s. 206.

⁴² 29 U.S.C. s. 218(a).

⁴³ 29 U.S.C. s. 207.

⁴⁴ 29 U.S.C. s. 211.

⁴⁵ 29 U.S.C. s. 212.

⁴⁶ United States Department of Labor, Wage and Hour Division, <http://www.dol.gov/whd/workers.htm> (last visited Feb 24, 2017).

⁴⁷ 29 U.S.C. s. 213; http://www.dol.gov/whd/overtime_pay.htm (last visited Feb. 24, 2017).

⁴⁸ A copy of the Executive Order can be found online at <http://www.whitehouse.gov/the-press-office/2014/02/12/executive-order-minimum-wage-contractors> (last visited Feb. 24, 2017).

⁴⁹ *Id.*

On September 20, 2016, the Department of Labor published a Notice in the Federal Register to announce that, beginning January 1, 2017, the Executive Order increases the minimum wage rate to \$10.20 per hour and tipped employees performing work on or in connection with covered contracts generally must be paid a minimum cash wage at \$6.80 per hour.⁵⁰

State Labor and Wage Regulations

Article I, Section 6 of the State Constitution creates a constitutional right to collectively bargain for public sector employees. It provides, in pertinent part, that “[t]he right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.” The Florida Supreme Court has held that public employees maintain the same rights to collectively bargain as do private employees.⁵¹

In addition, the State Constitution provides that “[a]ll working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.”⁵² The State Constitution requires that employers pay employees no less than the minimum wage for all hours worked in Florida.⁵³ The current state minimum wage is \$8.10 per hour,⁵⁴ which is higher than the federal rate.⁵⁵

Federal Project Labor Agreements

In 2009, President Barack Obama signed Executive Order 13502 authorizing the use of project labor agreements for federal construction projects.⁵⁶ The Executive Order defines the term “project labor agreement” as a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(f). The Executive Order provides that executive agencies may, on a project-by-project basis, require the use of a project labor agreement by a contractor if the agreement will advance the federal government’s goal of achieving economy and efficiency in procurement; produce labor-management stability; and ensure compliance with laws and regulations concerning safety, health, equal employment opportunity, and labor and employment standards.

⁵⁰ United States Department of Labor, Wage and Hour Division, Final Rule: Executive Order 13658, Establishing a Minimum Wage for Contractors, <https://www.dol.gov/whd/flsa/eo13658/index.htm> (last visited Feb. 24, 2017).

⁵¹ See *Hillsborough Cnty. Gov’tl Emps. Ass’n, Inc. v. Hillsborough Cnty. Aviation Auth.*, 522 So.2d 358 (Fla. 1988); *City of Tallahassee v. Public Employees Relations Comm’n*, 410 So.2d 487 (Fla. 1981); *Dade Cnty. Classroom Teachers Ass’n v. Legislature of Fla.*, 269 So.2d 684 (Fla. 1972).

⁵² Article X, s. 24(a), FLA. CONST. and s. 448.110, F.S.

⁵³ Article X, s. 24(c), FLA. CONST.

⁵⁴ <http://www.floridajobs.org/business-growth-and-partnerships/for-employers/display-posters-and-required-notice> (last visited Feb. 24, 2017).

⁵⁵ The federal minimum wage is \$7.25 per hour. For more information about federal minimum wage provisions, see <http://www.dol.gov/whd/minimumwage.htm> (last visited Feb. 24, 2017).

⁵⁶ A copy of the Executive Order can be found online at <https://www.gpo.gov/fdsys/pkg/FR-2009-02-11/pdf/E9-3113.pdf> (last visited Feb. 24, 2017); the Executive Order is codified in subpart 22.5 of the Federal Acquisition Regulation.

Federal Prevailing Wage Requirements

The Davis-Bacon Act applies to contractors and subcontractors performing work on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public works projects or public buildings.⁵⁷ The United States Department of Labor, Wage and Hour Division, issues two types of wage determinations: general determinations (also known as area determinations) and project determinations. The wage and fringe benefits⁵⁸ in the applicable Davis-Bacon wage determination must be the minimum paid by contractors and subcontractors to laborers and mechanics.⁵⁹

III. Effect of Proposed Changes:

Section 1 creates s. 255.0992, F.S., relating to public works projects and prohibited governmental actions. The section defines the following terms:

- “Political subdivision” means a separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term includes, but is not limited to, a county; a city, town, or other municipality; or a department, commission, authority, school district, taxing district, water management district, or other public agency or body thereof authorized to expend public funds for construction, maintenance, repair, or improvement of public works.
- “Public works project” means an activity of which 50 percent or more of the cost will be paid from state-appropriated funds that were appropriated at the time of the competitive solicitation and which consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned in whole or in part by any political subdivision.

Except as required by federal or state law, the state or any political subdivision that contracts for a public works project may not require that a contractor, subcontractor, or material supplier or carrier engaged in such project:

- Pay employees a predetermined amount of wages or prescribe any wage rate;
- Provide employees a specified type, amount, or rate of employee benefits;
- Control, limit, or expand staffing; or
- Recruit, train, or hire employees from a designated, restricted, or single source.

The bill also provides that the state or any political subdivision that contracts for a public works project may not prohibit a contractor, subcontractor, or material supplier or carrier able to perform such work who is qualified, licensed, or certified as required by state law from submitting a bid on any public works project or being awarded any contract, subcontract, material order, or carrying order. However, this provision does not apply to vendors listed in s. 287.133 or s. 287.134, F.S.

⁵⁷ 40 U.S.C. s. 3142(a).

⁵⁸ Examples of fringe benefits include life insurance, health insurance, pension, vacation, holidays, sick leave, and other “bona fide” fringe benefits. <http://www.dol.gov/whd/programs/dbra/faqs/fringes.htm#Fringe> (last visited Feb. 24, 2017).

⁵⁹ 40 U.S.C. s. 3142(b).

This section does not apply to contracts executed under ch. 337, F.S.

Section 2 provides that this act shall 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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 255.0992 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 Committee on March 6, 2017:

- Revises the definition of “public works project” so that the term includes only an activity of which 50 percent or more of the cost will be paid from state-appropriated funds; and
- Clarifies that although the state or a political subdivision that contracts for a public works project may not prohibit certain qualified, licensed, or certified persons from submitting a bid or being awarded any contract, subcontract, material order, or carrying order, this provision does not apply to vendors listed under s. 287.133 or s. 287.134, F.S.

- B. **Amendments:**

None.



504840

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 29 - 30
and insert:

(b) "Public works project" means an activity of which 50 percent or more of the cost will be paid from state-appropriated funds that were appropriated at the time of the competitive solicitation and which consists of



322878

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 55
and insert:
material order, or carrying order. This paragraph does not apply
to vendors listed in ss. 287.133 and 287.134.

By Senator Perry

8-00450B-17

2017534__

A bill to be entitled
An act relating to public works projects; creating s.
255.0992, F.S.; providing definitions; prohibiting the
state and political subdivisions that contract for
public works projects from imposing restrictive
conditions on certain contractors, subcontractors, or
material suppliers or carriers; prohibiting the state
and political subdivisions from restricting qualified
bidders from submitting bids or being awarded
contracts; providing applicability; providing an
effective date.

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

Section 1. Section 255.0992, Florida Statutes, is created
to read:

255.0992 Public works projects; prohibited governmental
actions.—

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

(a) "Political subdivision" means a separate agency or unit
of local government created or established by law or ordinance
and the officers thereof. The term includes, but is not limited
to, a county; a city, town, or other municipality; or a
department, commission, authority, school district, taxing
district, water management district, board, public corporation,
institution of higher education, or other public agency or body
thereof authorized to expend public funds for construction,
maintenance, repair, or improvement of public works.

(b) "Public works project" means an activity that is paid
for in whole or in part with state funds and that consists of
the construction, maintenance, repair, renovation, remodeling,
or improvement of a building, road, street, sewer, storm drain,

8-00450B-17

2017534__

water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned in whole or in part by any political subdivision.

(2) (a) Except as required by federal or state law, the state or any political subdivision that contracts for a public works project may not require that a contractor, subcontractor, or material supplier or carrier engaged in such project:

1. Pay employees a predetermined amount of wages or prescribe any wage rate;

2. Provide employees a specified type, amount, or rate of employee benefits;

3. Control, limit, or expand staffing; or

4. Recruit, train, or hire employees from a designated, restricted, or single source.

(b) The state or any political subdivision that contracts for a public works project may not prohibit any contractor, subcontractor, or material supplier or carrier able to perform such work who is qualified, licensed, or certified as required by state law to perform such work from submitting a bid on the public works project or being awarded any contract, subcontract, material order, or carrying order.

(3) This section does not apply to contracts executed under chapter 337.

Section 2. This act shall take effect July 1, 2017.



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: February 15, 2017

I respectfully request that **Senate Bill #534**, relating to Public Works Projects, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

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

MARCH 6, 2017
Meeting Date

SB-534
Bill Number (if applicable)

Topic PUBLIC WORKS

Amendment Barcode (if applicable)

Name J. B. CLARK

Job Title LOBBYIST

Address 2071 CYNTHIA DRIVE
Street

Phone 850-556-8143

TRULAWASSEE, FL 32303
City State Zip

Email JCLARK5@EARTHLINK.NET

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA ELECTRICAL WORKERS ASSN.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17

Meeting Date

SB 534
Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Theresa King

Job Title President

Address P O Box 10888

Street

Phone 850-228-8948

Tallahassee

City

State

32302

Zip

Email fbt.tking@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Building & Construction Trades

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-6-17

Meeting Date

SB 534

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Casey Cook

Job Title Senior Legislative Advocate

Address PO Box 1757

Street

Tallahassee

City

FL

State

32302

Zip

Phone 850 701 3701

Email ccook@flcities.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

534
Bill Number (if applicable)

Topic PUBLIC WORKS

Amendment Barcode (if applicable)

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO BOX 1766
Street

Phone 954 850 4053

POMPANO BEACH FL 33061
City State Zip

Email workingfolk@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing COMMUNICATIONS WORKERS of AMERICA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

534

Meeting Date _____

Bill Number (if applicable) _____

Topic Public Works

Amendment Barcode (if applicable) _____

Name ZEFANIA Durham III

Job Title Transit ATY

Address 3827 NE 14th Street

Phone (352) 260-3524

Street

Gainesville

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-16-17

Meeting Date

534

Bill Number (if applicable)

Topic

Preemption of Local Control

Amendment Barcode (if applicable)

Name

Barbara DeVane

Job Title

Ms

Address

625 E. Brevard St

Phone

850-251-4280

Street

City

Tallahassee

State

Zip

FL 32308

Email

barbadevane1@

johnson

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FL NOW

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/06/2017

Meeting Date

SB 534

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone 850-205-9000

Street

Tallahassee

FL

32302

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Associated General Contractors Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/6/17
Meeting Date

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

534
Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Street

Tallahassee

City

FL

State

32301

Zip

Email fctep@yaoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3-6-17

Meeting Date

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

534

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1st St 2810

Street

MIAMI

City

33128

State

Zip

Phone 305-979-7110

Email JMM2@MIAMI-DADE.GOV

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/06/17

Meeting Date

SB 534

Bill Number (if applicable)

Topic Public Works

Amendment Barcode (if applicable)

Name Rich Templin

Job Title _____

Address 135 S. Monroe

Phone _____

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

58 534

Bill Number (if applicable)

Topic Pre-emption

Amendment Barcode (if applicable)

Name Steven Hall

Job Title Retiree

Address 2619 Corrine Dr.

Street

Orlando Fl. 32805

City

State

Zip

Phone _____

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

SB ~~1133~~ 534
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name SCOTT DUTAMEL

Job Title SELF

Address 155 Colonial Ave
Street

Phone 401-265-6757

CRANSTON RI 02910
City State Zip

Email SDUTAMEL@PAT.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

SB 534

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Bruce Kershner

Job Title

Address

231 West Bay Ave.

Street

Longwood

City

FL

State

32750

Zip

Phone

407 830 1882

Email

BRKershner@att.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Northwest Florida Section AGC

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

534

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name GLENN ABICHT

Job Title SERVICES TECHNICIAN

Address 4305 SW 98 AV
Street

Phone 786-376-1181

MIAMI FL 33165
City State Zip

Email GLENN.ABICHT@GMAIL.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17

Meeting Date

SB 534

Bill Number (if applicable)

Topic Preemption

Amendment Barcode (if applicable)

Name Donald Persson

Job Title Teacher

Address 12980 Orange Grove Blvd.

Street

West Palm Beach FL 33411

City

State

Zip

Phone (561) 719-6838

Email donald.persson@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

SB 534

Bill Number (if applicable)

Topic

Pre-emption Public Works

Amendment Barcode (if applicable)

Name

Jeff Lewinson

Job Title

Teacher

Address

174 Bowers Way

Phone

561 248 5416

Street

Royal Palm Beach

Email

~~Jeff Lewinson~~
JeffLew@att.com

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Representing

Myself

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

8/6/17

Meeting Date

534

Bill Number (if applicable)

Topic Public Works Propct

Amendment Barcode (if applicable)

Name Arthur Rosenberg

Job Title Attorney

Address 3000 Biscayne Blvd, #106

Phone 850-509-2085

Street

Miami,

State

FL

Zip

Email arthur@floridalegal.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Legal Services

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/6/17
Meeting Date

534
Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Deputy Chief Lobbyist

Address 3730 Coconut Creek Parkway
Street
Coconut Creek FL 33066
City State Zip

Phone (954) 465-6811

Email cbowen@abwastflorida.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Builders and Contractors of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

534

Bill Number (if applicable)

Topic Public Works Projects

Amendment Barcode (if applicable)

Name Diana Arreaga

Job Title Dir Govt Relations

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing City of Miami

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 534
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, March 6, 2017
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 422

INTRODUCER: Senator Lee and others

SUBJECT: Municipal Conversion of Independent Special Districts

DATE: March 3, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.			EE	
3.			RC	

I. Summary:

SB 422 adds a minimum population standard for qualified electors of an independent special district to commence a certain municipal conversion proceeding.

II. Present Situation:

Establishment of Municipalities

The Florida Constitution provides that “municipalities may be established or abolished and their charters amended pursuant to general or special law.”¹ Chapter 165 of the Florida Statutes lays out the local government formation process and provides standards, direction, and procedures for the formation of municipalities in the state.² The provisions of this act are the exclusive procedure for forming or dissolving municipalities in Florida, except in those counties operating under a home rule charter which provides for an exclusive method as authorized by Article VIII, section 6(e) of the Florida Constitution.³ A charter for incorporation of a municipality shall be adopted only by a special act of the Legislature upon determination that the standards provided in ch. 165, F.S., are met.⁴ To inform the Legislature on the feasibility of a proposed incorporation of a municipality, a feasibility study shall be completed and submitted to the Legislature.⁵ The study shall contain the following:

- The location of territory subject to boundary change and a map of the area which identifies the proposed change.
- The major reasons for proposing the boundary change.

¹ FLA. CONST. art. VIII, s. 2.

² Section 165.021, F.S.

³ Section 165.022, F.S.

⁴ Section 165.041(1)(a), F.S. The procedure for a municipal incorporation by merger is also included in this section.

⁵ Section 165.041(1)(b), F.S. The study must be submitted no later than the first Monday after September 1 of the year before the regular session of the Legislature during which the municipal charter would be enacted.

- The following characteristics of the area:
 - A list of the current land use designations applied to the subject area in the county comprehensive plan.
 - A list of the current county zoning designations applied to the subject area.
 - A general statement of present land use characteristics of the area.
 - A description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
- A list of all public agencies, such as local governments, school districts, and special districts, whose current boundary falls within the boundary of the territory proposed for the change or reorganization.
- A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each current service.
- A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such proposed services.
- The names and addresses of three officers or persons submitting the proposal.
- Evidence of fiscal capacity and an organizational plan as it relates to the area seeking incorporation that, at a minimum, includes:
 - Existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate.
 - A 5-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance, and budgets.
 - Data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis.
 - Evaluation of the alternatives available to the area to address its policy concerns.
- Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S.⁶

Section 165.061, F.S., provides standards that must be met for incorporation of a new municipality. The conditions are as follows:

- It must be compact and contiguous and amenable to separate municipal government.
- It must have a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 persons in counties with a population of more than 75,000.
- It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
- It must have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary which requires separate municipal government.

⁶ *Id.*

- It must have a proposed municipal charter which:
 - Prescribes the form of government and clearly defines the responsibility for legislative and executive functions.
 - Does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law.
- In accordance with Article I, section 10 of the Florida Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation. However, the plan for incorporation may provide for existing contracts for solid-waste-collection services to be honored only for 5 years or the remainder of the contract term, whichever is less, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or evergreen provisions, be provided to the municipality within a reasonable time after a written request to do so.

Special Districts

The “Uniform Special District Accountability Act of 1989,” ch. 189 F.S., defines the term “special district” to mean:

a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17,⁷ a municipal service taxing or benefit unit as specified in s. 125.01,⁸ or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

A “dependent special district” means a special district that meets at least one of the following criteria:

- The membership of its governing body is identical to that of the governing body of a single county or a single municipality.
- All members of its governing body are appointed by the governing body of a single county or a single municipality.
- During their unexpired terms, members of the special district’s governing body are subject to removal at will by the governing body of a single county or a single municipality.
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.⁹

⁷ This section creates special improvement districts within the reservations set aside for the Seminole and Miccosukee Tribes.

⁸ Section 125.01(q), F.S., provides that the governing body of a county has the authority to establish, and subsequently merge or abolish, municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which may be provided fire protection; law enforcement...and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.

⁹ Section 189.012(2), F.S.

An “independent special district” means a special district that is not a dependent special district as defined, above. A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.¹⁰

As of March 2017, there are 1,036 active independent special districts and 632 active dependent special districts in this state.¹¹

Municipal Conversion of Independent Special Districts

Section 165.0615, F.S., provides the process for converting an independent special district into a municipality. The qualified electors of an independent special district may commence a municipal conversion proceeding by filing a petition with the governing body of the independent special district proposed to be converted.¹² The independent special district must meet the following criteria to be proposed for conversion:

- It was created by special act of the Legislature.
- It is designated as an improvement district and created pursuant to ch. 298, F.S., or is designated as a stewardship district and created pursuant to s. 189.031, F.S.
- Its governing board is elected.
- Its governing board agrees to the conversion.
- It provides at least four of the following municipal services: water, sewer, solid waste, drainage, roads, transportation, public works, fire and rescue, street lighting, parks and recreation, or library or cultural facilities.
- No portion of the district is located within the jurisdictional limits of a municipality.¹³

Unlike the standards for incorporation of a new municipality, there is not currently a population requirement for the conversion of an independent special district.¹⁴ The petition for conversion must include signatures of at least 40 percent of the qualified electors of the independent special district and must be submitted to the supervisor of elections of the county in which the district lands are located.^{15,16} It also must be filed with the governing body of the independent special district.¹⁷ The petition must be in a specific form as provided by statute,¹⁸ and must be validated by a notary, a witness who is a duly qualified elector of the independent special district, or another person authorized to take acknowledgements.¹⁹ Depending on who signs the statement,

¹⁰ Section 189.012(3), F.S.

¹¹ Division of Community Development, Florida Department of Economic Opportunity, *Special District Accountability Program*, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm> (last visited March 2, 2017).

¹² Section 165.0615(1), F.S.

¹³ *Id.*

¹⁴ Following the framework of s. 165.0615, F.S., the Seminole Improvement District successfully converted into the City of Westlake with five registered voters in the district. Palm Beach County Supervisor of Elections, *Letter of Certification of Number of Registered Voters*, April 7, 2016 (on file with the Community Affairs Committee).

¹⁵ Section 165.0615(2)(a), F.S. It must be filed no later than 1 year after the start of the qualified elector-initiated municipal conversion proceeding.

¹⁶ Section 165.0615(3), F.S. Within 30 days of receiving the petition, the supervisor of elections shall certify to the governing body the number of signatures of qualified electors contained on the petition.

¹⁷ *Id.*

¹⁸ Section 165.0615(2)(b), F.S.

¹⁹ Section 165.0615(2)(c), F.S.

specific forms must be used as provided by statute.²⁰ Once the supervisor of elections has verified that 40 percent of the qualified electors have petitioned for conversion, and that all petitions have been executed within 1 year after the date of the initiation of the conversion process, the governing body of the independent special district shall meet within 30 business days to prepare and approve by resolution a proposed elector-initiated combined conversion and incorporation plan.²¹ The proposed plan must include:

- The name of the independent special district to be converted to a municipality.
- The name of the municipality to be created.
- The conversion schedule.
- Notwithstanding s. 165.061(1)(d), F.S., certification by a licensed surveyor that the boundaries of the proposed municipality do not overlap with any other municipal boundary and are contained within a single county.
- The rights, duties, and obligations of the municipality, and a feasibility study that contains the requirements under s. 165.041(1)(b), F.S., except that the provisions of s. 165.061(1)(b)-(d), F.S., do not apply if the buildout of the land use allowed under the current county-approved comprehensive plan and zoning designations will meet the population and density requirements of s. 165.061(1)(b) and (c), F.S.
- The territorial boundaries of the proposed municipality.
- The governmental organization of the proposed municipality and independent special district as the organization concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials.
- An accounting of the independent special district's assets, including, but not limited to, real and personal property, and the current value of the property.
- An accounting of the independent special district's liabilities and indebtedness, bonded and otherwise, and the current value of the liabilities and indebtedness.
- Terms for addressing the ownership and obligations related to existing assets, liabilities, and indebtedness of the independent special district, jointly, separately, or in defined proportions.
- Terms for the common administration and uniform enforcement of existing laws within the proposed municipality.
- An estimated date for final payment of any bonded indebtedness of the independent special district, and if maintained by the district after incorporation, the estimated date of automatic dissolution of the independent special district.
- The time and place for a public hearing on the proposed incorporation.
- The effective date of the proposed incorporation.²²

The resolution endorsing the plan must be approved by a majority vote of the governing body of the independent special district and must be adopted at least 60 business days before any general or special election on the proposed plan.²³ Within 5 business days after the independent special district approves the proposed plan, the governing body must have the plan available for the public.²⁴ This includes keeping copies displayed and accessible in at least three public places (or

²⁰ Sections 165.0615(2)(d-e), F.S.

²¹ Section 165.0615(4), F.S.

²² *Id.*

²³ Section 165.0615(5), F.S.

²⁴ Section 165.0615(6), F.S.

all public places if there are less than three in a district).²⁵ The plan must be available on a website maintained by the district.²⁶ A descriptive summary of the plan also must be published in a newspaper of general circulation within the district at least once a week for 4 successive weeks, and must indicate the public places where a copy of the plan may be examined.²⁷

The governing body of the district shall set a time and place for one or more public hearings on the proposed plan, allowing for interested persons residing in the district to be heard on any aspect of the proposed merger.²⁸ Notice of the final hearing must be published pursuant to notice requirements in s. 189.015, F.S., and must provide a summary of the plan and where it can be examined.²⁹ After the final public hearing, the governing body may amend the proposed plan if the amended version complies with notice and public hearing requirements provided in the statute.³⁰ A final version of the plan shall be approved within 60 business days of the final hearing.³¹ The governing body must then notify the supervisor of elections of the adoption of the resolution by the governing body, and the supervisor shall schedule a date for the referendum.³² Notice of the referendum must be provided pursuant to the notice requirements in s. 100.342, F.S., and must include:

- A brief summary of the resolution and elector-initiated municipal incorporation plan;
- A statement as to where a copy of the resolution and petition for municipal incorporation may be examined;
- The name of the independent special district to be converted to a municipality and a description of the territory included in the plan;
- The time and place at which the referendum will be held; and
- Such other matters as may be necessary to call, provide for, and give notice of the referendum and to provide for the conduct of the referendum and the canvass of the returns.³³

The referendum must be held in accordance with the Florida Election Code, with the costs borne by the independent special district.³⁴ The ballot for the referendum must appear in the form as provided by s. 165.0615(13), F.S. The ballots must be counted, returns made and canvassed, and results certified in the same manner as other elections or referenda for the independent special district.³⁵ The plan will not take effect unless a majority of the votes cast in the district are in favor of the plan;³⁶ and if the plan is approved by a majority of the votes cast the district shall notify the Special District Accountability Program³⁷ and the local general-purpose governments

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Section 165.0615(7), F.S. The hearings shall be held on a weekday at least 7 business days after the first advertisement is published.

²⁹ Section 165.0615(8), F.S.

³⁰ Section 165.0615(9), F.S.

³¹ *Id.*

³² Section 165.0615(10), F.S.

³³ Section 165.0615(11), F.S.

³⁴ Section 165.0615(12), F.S.

³⁵ Section 165.0615(14), F.S.

³⁶ Section 165.0615(15), F.S.

³⁷ The Special District Accountability Program is a centralized source of information about the special districts in the state, and is a function of the Florida Department of Economic Opportunity. Special District Accountability Program, Florida

in which any part of the independent special district is situated.³⁸ If the referendum fails, the conversion process may not be initiated for the same purpose within 2 years after the date of the referendum.³⁹ An independent special district proposed for conversion under an elector-initiated municipal incorporation plan must continue to be governed as before the approved referendum until the effective date specified in the plan.⁴⁰ Finally, the effective date of the incorporation shall be as provided in the plan, and is not contingent upon a future act of the Legislature.⁴¹

III. Effect of Proposed Changes:

The bill adds a minimum population standard to the existing criteria for converting an independent special district into a municipality. In order to qualify to commence a municipal conversion proceeding, the district must have a total population in the area proposed of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 persons in counties with a population of more than 75,000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

Department of Economic Opportunity, <http://floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program> (last visited February 28, 2017).

³⁸ Section 165.0615(16), F.S.

³⁹ Section 165.0615(17), F.S.

⁴⁰ Section 165.0615(18), F.S.

⁴¹ Section 165.0615(19), F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 165.0615 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 Lee

20-00544-17

2017422__

A bill to be entitled
An act relating to municipal conversion of independent
special districts; amending s. 165.0615, F.S.; adding
a minimum population standard for qualified electors
of an independent special district to commence a
certain municipal conversion proceeding; providing an
effective date.

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

Section 1. Subsection (1) of section 165.0615, Florida
Statutes, is amended to read:

165.0615 Municipal conversion of independent special
districts upon elector-initiated and approved referendum.—

(1) The qualified electors of an independent special
district may commence a municipal conversion proceeding by
filing a petition with the governing body of the independent
special district proposed to be converted if the district meets
all of the following criteria:

(a) It was created by special act of the Legislature.

(b) It is designated as an improvement district and created
pursuant to chapter 298 or is designated as a stewardship
district and created pursuant to s. 189.031.

(c) Its governing board is elected.

(d) Its governing board agrees to the conversion.

(e) It provides at least four of the following municipal
services: water, sewer, solid waste, drainage, roads,
transportation, public works, fire and rescue, street lighting,
parks and recreation, or library or cultural facilities.

(f) No portion of the district is located within the
jurisdictional limits of a municipality.

(g) It meets minimum population standards as provided in s.

20-00544-17

2017422__

33 165.061(1)(b).

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/17

Meeting Date

5B422

Bill Number (if applicable)

Topic Municipal Conversion of Independent Special

Amendment Barcode (if applicable)

Name Rebecca DeLaRosa

Districts

Job Title Legislative Affairs Director

Address 309 N Olive Ave

Street

Phone 850 284 7235

West Palm Beach, FL 33401

City

State

Zip

Email rdelrosa@pbcgov.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Palm Beach County

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

COMMITTEE: Community Affairs
ITEM: SB 422
FINAL ACTION: Favorable
MEETING DATE: Monday, March 6, 2017
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
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RS=Replaced by Substitute Amendment

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VA=Vote After Roll Call
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Workforce Taskforce

TALLAHASSEE, FLORIDA

SPRING 2017

A decorative horizontal bar at the bottom of the slide, consisting of a thin blue line on top and a thicker orange line below it.

Construction Industry Workforce Task Force

CHAIRMAN:

PETER DYGA
ASSOCIATED BUILDERS & CONTRACTORS OF FLORIDA

SENATOR TRAVIS HUTSON

REPRESENTATIVE DANE EAGLE

ALARM ASSOCIATION OF FLORIDA

AMERICAN FIRE SPRINKLER ASSOCIATION FLORIDA CHAPTER

ASSOCIATED BUILDERS & CONTRACTORS OF FLORIDA

CHAIR OF THE FLORIDA BUILDING COMMISSION

FLORIDA CARPENTERS REGIONAL COUNCIL

FLORIDA FIRE SPRINKLER ASSOCIATION

FLORIDA HOME BUILDERS ASSOCIATION

FLORIDA ROOFING, SHEET METAL & AIR CONDITIONING CONTRACTORS
ASSOCIATION

FLORIDA SWIMMING POOL ASSOCIATION

INDEPENDENT ELECTRICAL CONTRACTORS

NATIONAL UTILITY CONTRACTORS ASSOCIATION OF FLORIDA

ASPHALT CONTRACTORS ASSOCIATION OF FLORIDA

BUILDING OFFICIALS ASSOCIATION OF FLORIDA

FLORIDA ASSOCIATED GENERAL CONTRACTORS COUNCIL

FLORIDA BUILDING & CONSTRUCTION TRADES COUNCIL WITHIN THE
FLORIDA AFL-CIO

FLORIDA CONCRETE & PRODUCT ASSOCIATION

FLORIDA ELECTRICAL WORKERS ASSOCIATION

FLORIDA PLUMBING-HEATING-COOLING CONTRACTORS ASSOCIATION

FLORIDA REFRIGERATION & AIR CONDITIONING CONTRACTORS
ASSOCIATION

NATIONAL CONTRACTORS ASSOCIATION FLORIDA CHAPTER

1. Address critical shortage of individuals

Share of Builders Reporting Labor Shortages (2014)

■ Serious shortage ■ Some shortage ■ No shortage

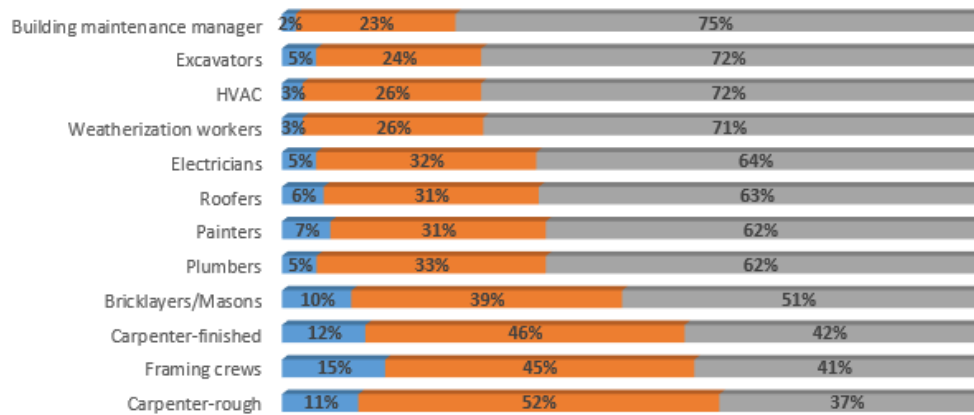


Figure 5 – Share of builders reporting labor shortage in 2014.

Source: [National Association of Home Builders](#).

NAHB Remodelers Reporting Labor Shortages (2014)

■ Serious shortage ■ Some shortage ■ No shortage

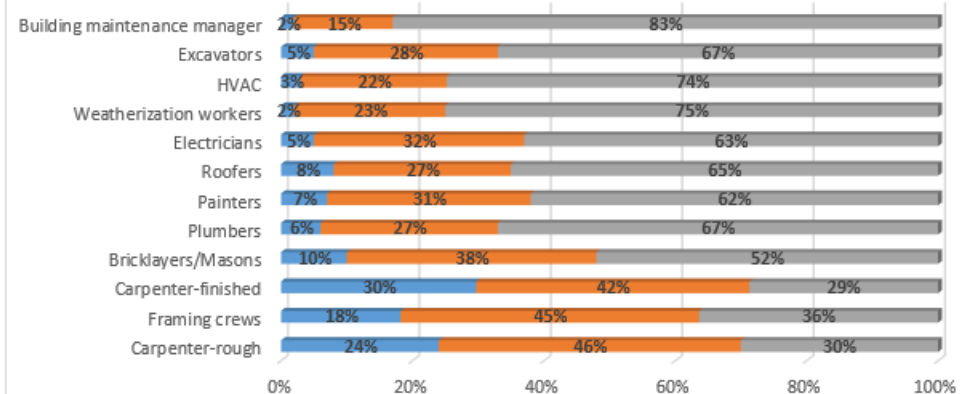


Figure 6 - Share of home remodelers reporting labor shortage in 2014.

Source: [National Association of Home Builders](#).

Grow projections

Above Average Growth					
Tech Services	Computer system design	4.2%	Housing and Construction	Construction Residential building	6.9%
	Data processing	3.4%		Residential specialty trade contractors	4.7%
	Architectural and engineering services	3.1%		Manuf. Wood products	4.2%
Mining	Oil and gas extraction	6.2%		Services to buildings and dwellings	2.9%
	Support activities for mining	5.2%		Heavy and civil engineering construction	2.7%
Transportation	Manuf. Transportation equipment	2.9%		Manuf. Furniture and related products	2.6%
Others	Non-store retailers	4.7%		Construction Nonresidential building	2.5%

Figure 4 - [Employment growth rates for a selected group of industries between 2012 and 2014.](#)

Source: The Conference Board

Projected growth

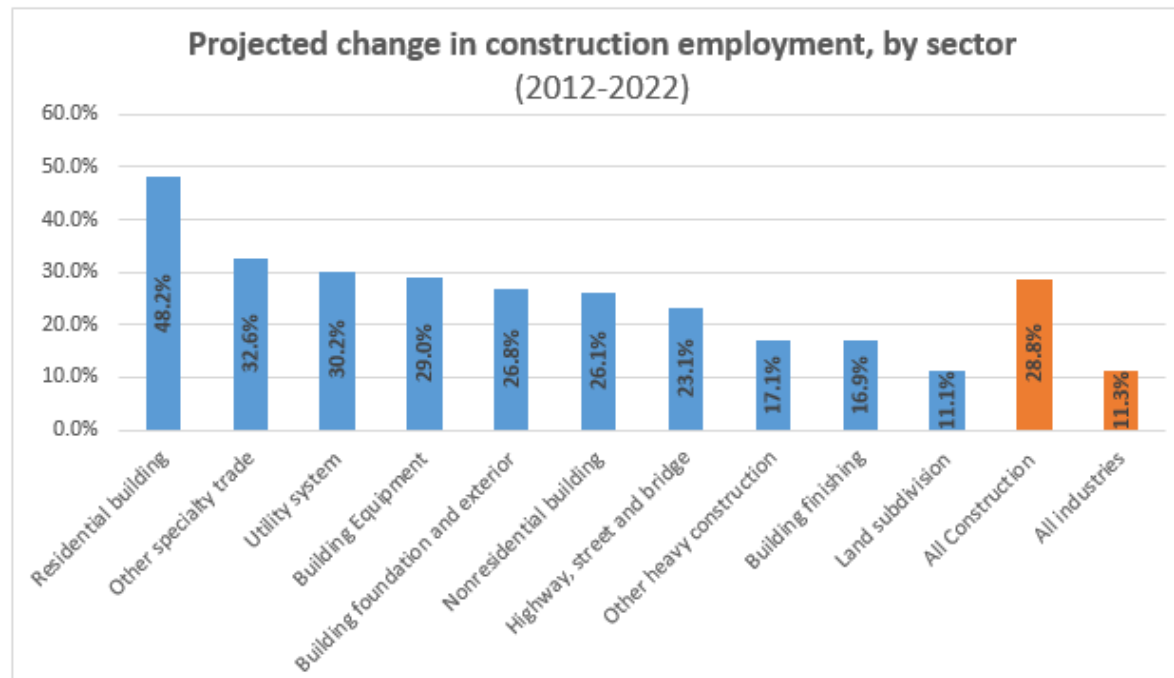


Figure 7 – Projected change in construction employment by sector 2012 to 2022.

Shortages in Florida

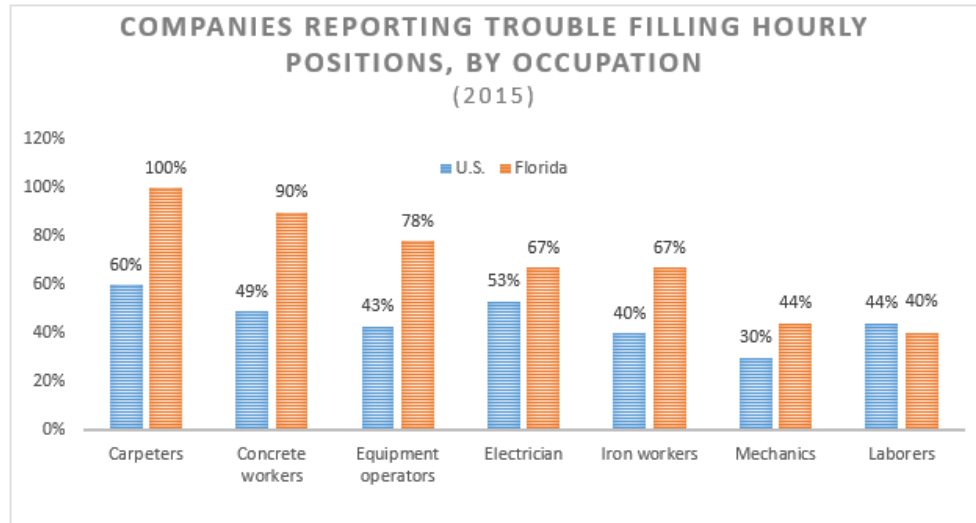


Figure 9 – Comparison of the reported problems for filling hourly position in the state of Florida and U.S.
Source: Associated General Contractors of America

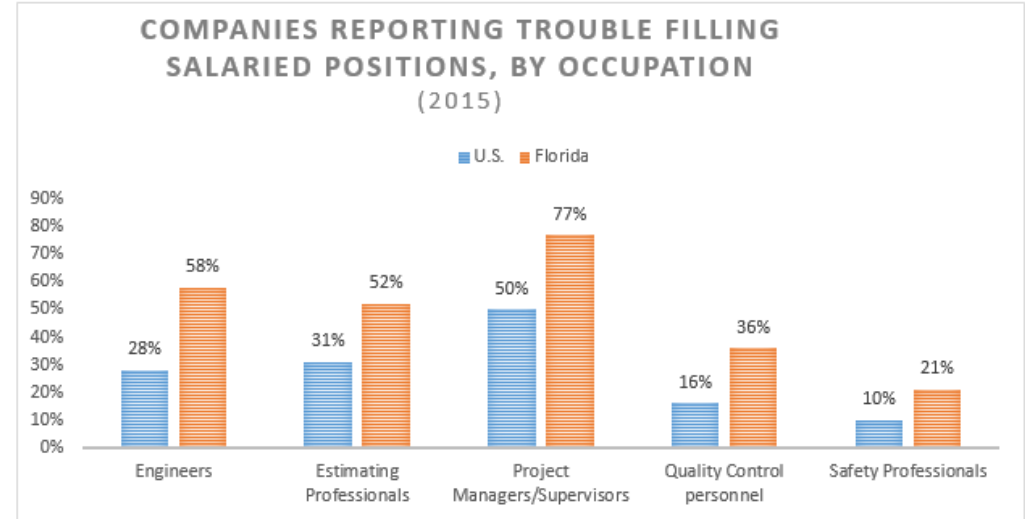


Figure 10 - Comparison of the reported problems for filling salaried position in the state of Florida and U.S.
Source: Associated General Contractors of America

Strategic shortages

<i>Occupation</i>	<i>Total Supply</i>	<i>Short term demand</i>	<i>Supply gap or overage</i>	<i>Ratio of supply to demand</i>	<i>Current year employment</i>
<i>First-line supervisors of construction trades and extraction workers</i>	685	2,159	-1474	0.32	41,563
<i>Sheet metal workers</i>	109	335	-226	0.33	7,826
<i>Plumber, pipefitters, and steamfitters</i>	530	747	-217	0.71	21,795
<i>Drywall and ceiling tile installers</i>	91	271	-180	0.34	6,555
<i>Roofers</i>	141	294	-153	0.48	20,912
<i>Tile and marble settlers</i>	58	104	-46	0.56	4,945
<i>Carpet installers</i>	70	91	-21	0.77	1,352
<i>Plasters and stucco masons</i>	36	55	-19	0.65	2,063
<i>Insulation workers, floor, ceiling and wall</i>	32	42	-10	0.76	1,167
<i>Glaziers</i>	68	73	-5	0.93	3,903
<i>Stonemasons</i>	9	13	-4	0.69	469

Figure 11 - Supply gap of construction occupations in the state of Florida.

Source: Florida Department of Economic Opportunity

2. Consensus path

Training is a combination of the following –

- On the job work hours
 - Written assessment
 - Performance evaluations
- 
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Craft training requirements

Requirements are typically reflected by the complexity of the job but are spelled out typically by years of training. NCCER Carpentry is an example -

Level	Hours required
L1 - Carpentry	235 Hours (72.5 Hours Core Curriculum)
L2 - Carpentry	210 Hours
L3 – Carpentry	160 Hours
L4 – Carpentry Advanced	182.5 Hours

The assumption in the model is that a craft worker in this program would also have 2,000 hours of work experience in a year



3. Causes of a trained construction industry work force shortage and impacts on real estate market

- Aging labor force
- Decline in apprenticeship numbers

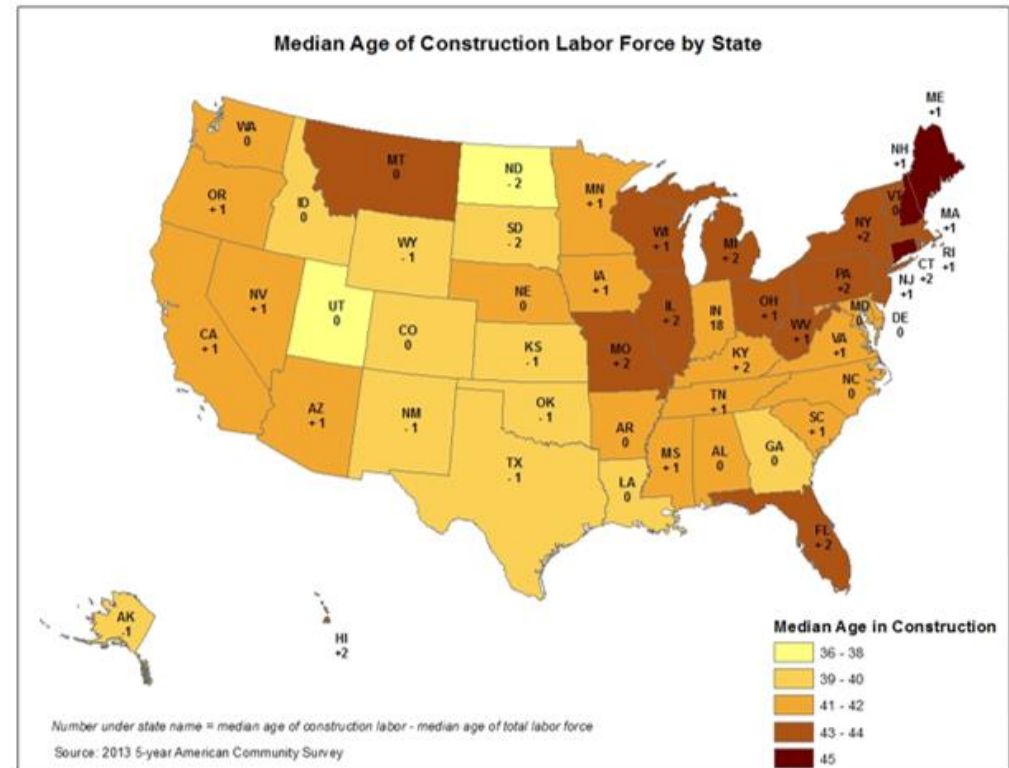


Figure 1 - Median age of the construction workforce by state.

Source: [2013 American Community Survey \(ACS\)](#)

Apprenticeship enrollment decline

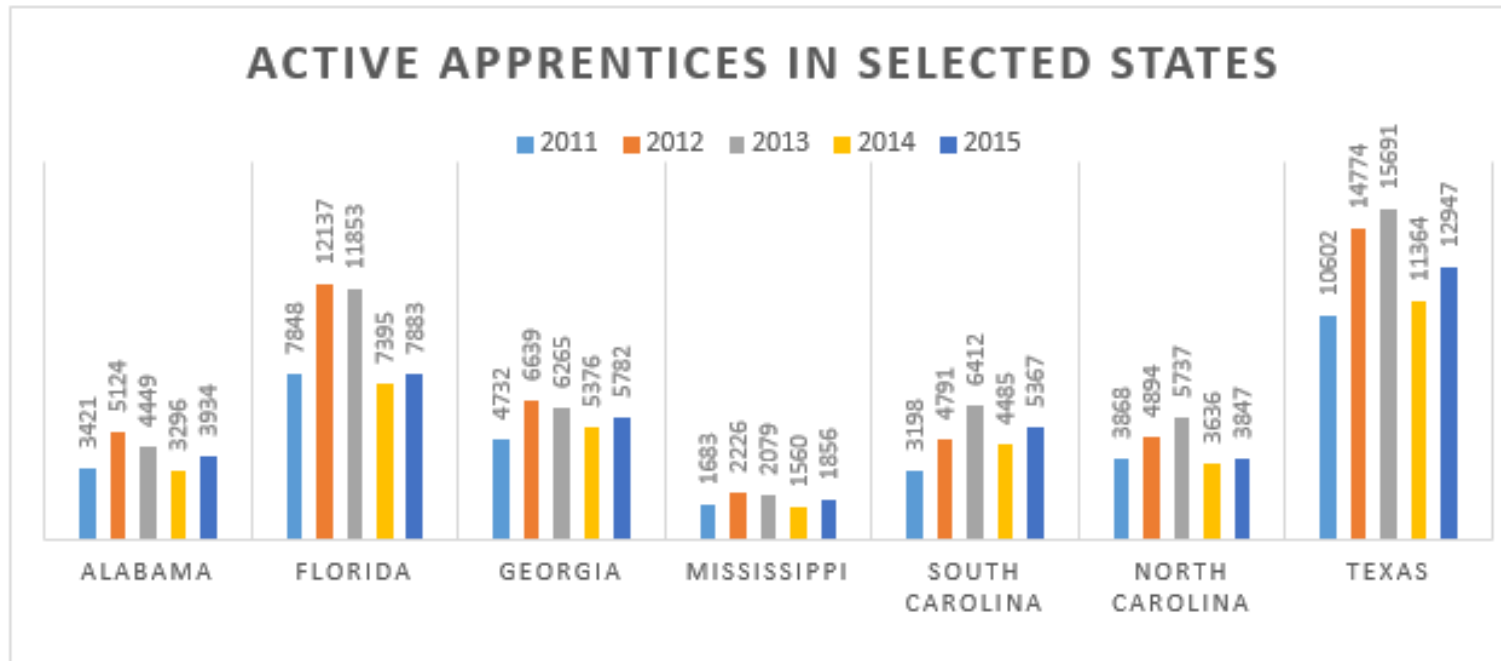


Figure 3 - Number of active apprentices in selected American states.
Source: [U.S. Department of Labor, Employment and Training Administration](#).

Loss of industry worker experience

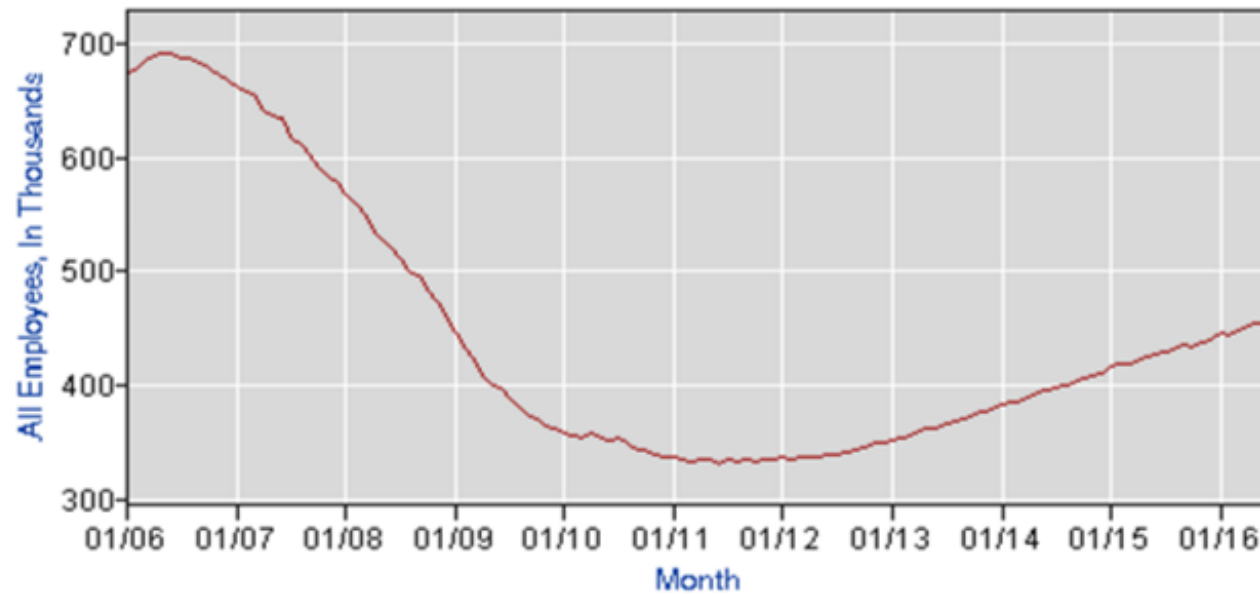


Figure 8 - Statewide employments for the construction industry. Data extracted on: September 15, 2016

Source: [Bureau of Labor Statistics](#).

4. Methods and resources for construction training

Current training is offered through various entities in the state.

Current training in Florida is primarily using NCCER developed curriculum for which trades that are supported.

Training sites include –

- Private businesses

- Education institutions

- Association based training centers

- Mobile training providers

5. Construction training available in K-12 schools

Table 3 Number of Registered CAPE Academies by Cluster, 2014-2015

Primary Career Cluster	Number of High School Academies	Number of Middle School Academies
Information Technology	237	26
Health Science	210	4
Hospitality & Tourism	201	7
Arts, A/V Technology & Communication	199	90
Agriculture, Food, and Natural Resources	156	16
Business Management and Administration	134	25
Engineering and Technology Education	130	42
Architecture & Construction	98	2
Education & Training	76	0
Transportation, Distribution & Logistics	65	0
Marketing, Sales & Services	52	1
Finance	43	0
Law, Public Safety & Security	30	1
Manufacturing	20	1
Human Services	6	1
Energy	5	0
Government & Public Administration	0	0
Total	1,662	216

Source Career and Professional Academy database; FLDOE

6. Training issues relating to building code inspectors

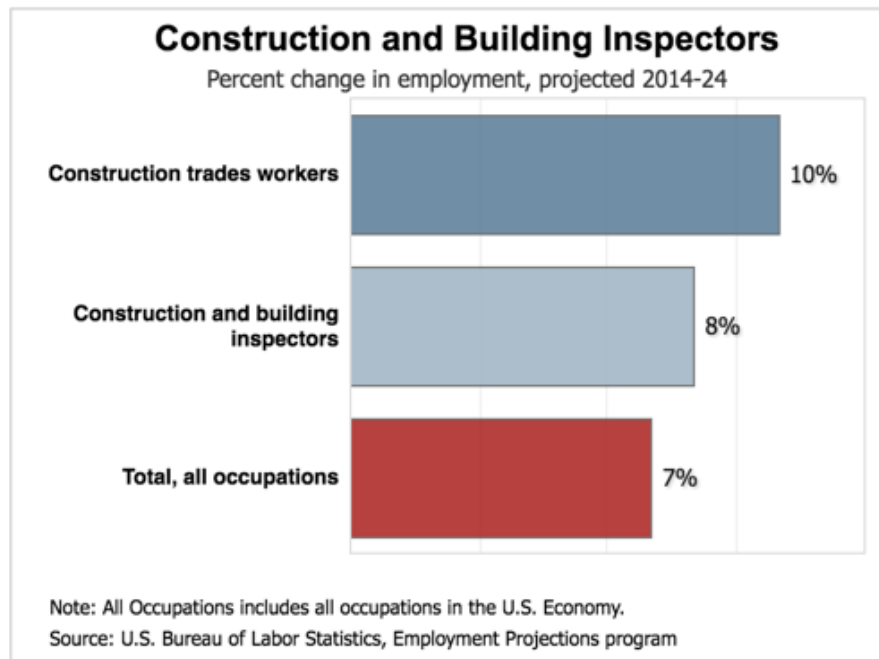
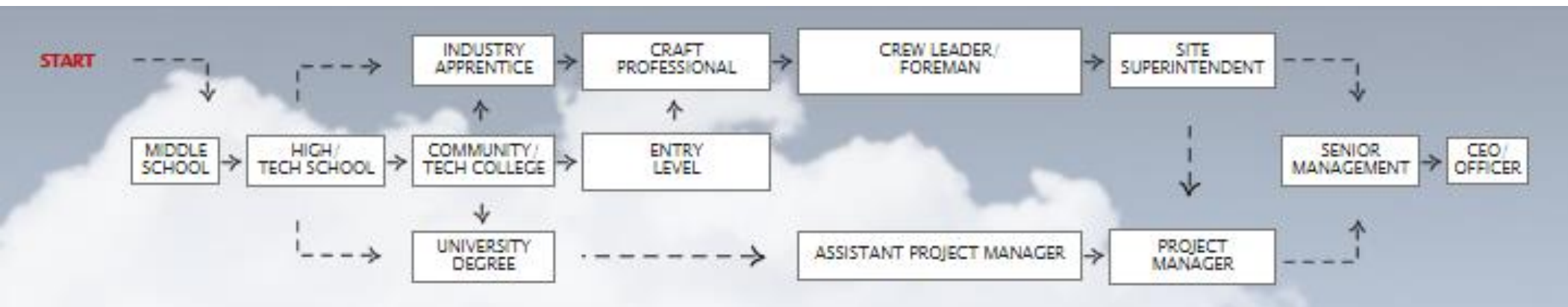


Figure 2 – Change in Employment of Construction and Building Inspector Trade, 2014 - 2024
Construction and Building Inspector Trade, Florida Outlook

Emphasize pathways



Legislative Recommendations

1. 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.

Study by DOE

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Legislative Recommendations

2. Create a legislative study to consider the appropriateness of moving apprenticeship programs from the Department of Education to the Department of Economic Opportunity.

The study should address and provide clarity regarding how current apprenticeships are funded from the state to the LEAs and what options the LEAs have in how they spend apprenticeship funding.

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Legislative Recommendations

3. The Department of Education recognizes the NCCER curriculum, and/or other comparable national curriculum, as eligible for high school credits, college credits, and state supported scholarships (e.g., bright futures).

Bill by Representative Avila

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Legislative Recommendations

4. 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.

Bill by Representative Avila



Legislative Recommendations

5. Extend the 'sunset' timeframe for this Taskforce and provide funding of \$100,000 per year, and a mechanism to obtain matching funds to continue to coordinate this task force. Funding will be used to continue data collection and analysis, ongoing economic impact studies, and subsequent strategies, implementation planning, and follow up.

House Bill 2713 by Representative McClain

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Legislative Recommendations

6. Direct CareerSource Florida to set aside existing federal training dollars for construction training programs using the previous state-wide 'Florida Rebuilds' program as an implementation model.

Bill by Representative Avila

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Legislative Recommendations

7. Provide funding from the existing DBPR “Building Permit Surcharge” trust fund dedicated to better code compliance through the recruitment and training of a qualified workforce (e.g. Build Your Future).

House Bill 2713 by Representative McClain

Legislative Recommendations

8. Allow for an alternative instructor certification process through the Department of Education that does not require certification through an LEA.

House Bill by Representative Avila

Legislative Recommendations

9. Create a joint legislative audit committee to review compliance of statute 553.80(7) across the state regarding use of building permit fees beyond the scope of supporting the building department activities.

Work with legislature to secure an audit by the Joint Legislature Audit Committee

Legislative Recommendations

10. The taskforce recommends and supports the work of Building Officials Association of Florida, Inc., in the development of the following initiatives:

Individual Bills filed SB 860/HB 909

- A. Alternative Internship Certification Program
 - B. Changes to Florida Statute 468:
 - C. Inter-agency service agreement inspections and plan examination
 - D. Have Building Code Administrators and Inspectors Board (BCAIB) streamline application for certification process
 - E. Provide high school education guidance material for construction related careers.
 - F. Support higher education code curriculum in engineering, architecture and construction management degrees.
 - G. Need for a comprehensive compensation study for building code compliance personnel.
- 
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THE FUTURE IS IN

YOUR HANDS

xxxxxxxxxx

BUILD YOUR FUTURE GOALS

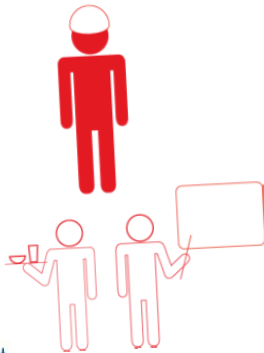
1 Make career and technical education (CTE) a priority in secondary schools.

The path to success can start with a CTE program in high school. With an 18% higher graduation rate, CTE provides direct correlation to the job market, rather than a broad field of study with no technical skill training.



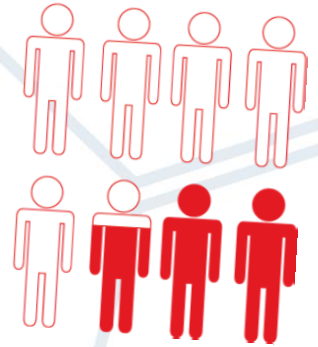
3 Shift negative public perception about careers in the construction industry to reflect the wide range of professions available.

For five straight years, 'Skilled Crafts' have remained the toughest positions to fill. This is in spite of the industry's upward mobility and high earning potential.



2 Provide a path from ambition, to training, to job placement as a craft professional.

By 2018, fields like construction and manufacturing will provide nearly 8 million job openings, 2.7 million of which will require a post-secondary credential. (Pathways to Prosperity, Harvard Graduate School of Education).



BUILD YOUR FUTURE. BUILD



NATIONAL RESOURCES

- **Teacher Resources (Downloadable)**
 - Posters, trading Cards, videos, best practices
- **Interactive Website**
- **Videos**
- **Military Initiative**
- **Career Day Planning**



CARPENTER \$43,890 salary

Do you like building, traveling and being outdoors? Why not consider a career that is fun and offers financial freedom. Commercial and industrial carpenters construct, erect, install, and repair structures and fixtures. These carpenters are involved in many different kinds of construction, from buildings to highways and bridges to power plants.

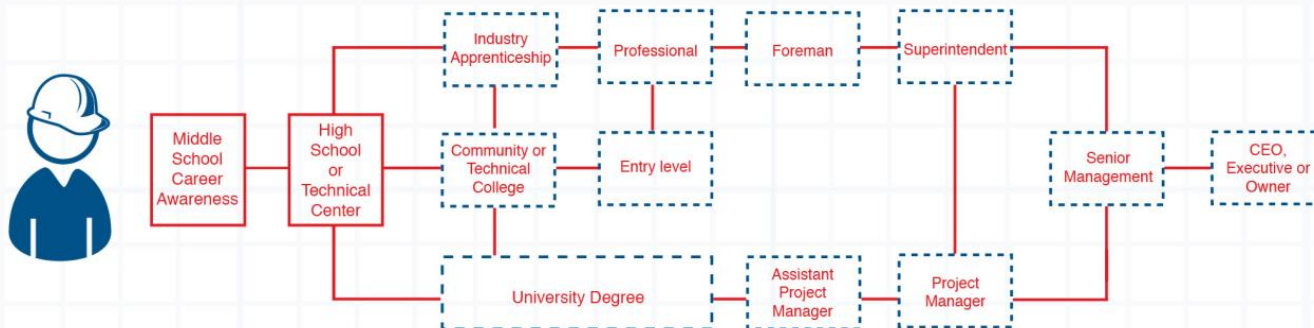
Education

Free to four years of classroom and on-the-job training.

 Scan with your smart phone to find out more at BYF.org.

CONSTRUCTION CAREER PATH

Construction careers in today's market are all about high-tech, high-stakes, huge earning potential and the opportunity to travel the world. Wherever you are in your education, there's a way for you to start training and securing the right credentials now. Below is a basic career path for the construction industry. You can get more details about each step by visiting BYF.org and using our interactive career path. Start building your future now.



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LOUISIANA SUCCESS

- **BYF: Louisiana**

Became state partner with Build Your Future in 2011.

- Since that time, the state has seen a **94% increase in construction craft program completions.**

- **LCTCS**

Yearly program completions have increased 145% since the beginning of BYF's partnership in 2011.



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STATE PARTNER HIGHLIGHTS



- 15,000 NEW monthly website visitors
- 1008 high schools requested customized resources
- Video reach -1.1 million viewers, aired over 30,000 times on cable television
- 118 craft professionals trained as ambassadors presented at 52 schools
- 42,000 individuals reached
- 3.9% increase in CTE secondary programs
- Adult Outreach events placed over 50% of applicants



BUILD YOUR FUTURE. BUILD



BUILD YOUR FUTURE INDIANA CRAFT TRAINING CENTERS



1 2 3 4

BUILD YOUR FUTURE

Construction companies will hire more than 61,000 workers in Indiana through 2017. Employers need boilermakers, glaziers, electricians, plumbers, carpenters and many other craft professionals. With several weeks of training, you can qualify for trade craft jobs and start earning great wages and benefits and gain the chance to prosper in a promising career.

Your new career in construction starts here. This site has all the information you need to start working toward a craft profession. You can research wages, learn about skills and training required for various trades, and view and apply for current job openings.

Tweets by @BYFIndiana

-  **Build Your Future IN** @BYFIndiana
Construction trades face worker shortage
journalgazette.net/business/Const...
26 Sep
-  **Build Your Future IN** @BYFIndiana
Build Your Future Indiana: youtu.be/yN-dkQgg0g4? via @YouTube
 **YouTube** @YouTube

- Digital Trading Cards
- Events
- Training

- Social Media
- Blog
- Magazine

LET'S BUILD FLORIDA TOGETHER!



Jennifer Wilkerson
Ashleigh Potuznik



BUILD YOUR FUTURE. BUILD



CourtSmart Tag Report

Room: SB 301
Caption: Senate Committee on Community Affairs

Case No.:

Type:
Judge:

Started: 3/6/2017 4:06:19 PM
Ends: 3/6/2017 5:58:28 PM **Length:** 01:52:10

4:06:19 PM
4:06:19 PM
4:06:25 PM Meeting called to order
4:06:39 PM Quorum present
4:06:59 PM Tab 1
4:07:04 PM SB 390
4:07:09 PM Senator Hutson
4:08:03 PM Questions?
4:08:10 PM Amendment adopted
4:08:15 PM Back on bill
4:08:19 PM Senator Hutson closes
4:08:27 PM Roll on SB 390
4:08:43 PM Bill passes
4:08:54 PM Tab 3
4:09:23 PM Senator Clemens
4:09:28 PM SB 464
4:09:58 PM Questions?
4:10:04 PM Appearance forms?
4:10:12 PM Kraig Conn representing Florida League of Cities in support
4:10:24 PM Eric Pool representing Florida Association of Counties in support
4:10:56 PM Bill reported favorably
4:11:01 PM Tab 5
4:11:27 PM Senator Perry on SB 534
4:11:30 PM Amendment
4:11:40 PM Questions?
4:12:25 PM Senator Clemens questions
4:12:29 PM Senator Perry
4:13:21 PM Senator Perry
4:13:24 PM Senator Clemens
4:14:15 PM Amendment Barcode 504840
4:14:36 PM Objection?
4:14:44 PM Amendment adopted
4:15:07 PM Temporarily pass this bill
4:15:27 PM Senator Clemens takes up tab 6
4:16:14 PM Chair Lee on SB 422
4:18:28 PM Questions on bill?
4:18:34 PM One Appearance card
4:18:53 PM Rebecca Delorosa from Palm Beach County waives in support
4:19:00 PM Chair Lee closes
4:19:04 PM Roll call on SB 422
4:19:28 PM SB 422 reported favorably
4:19:51 PM Chair Lee resumes the chair
4:20:06 PM Tab 7
4:20:58 PM Peter Dyga representing Associated Builders and Contractors FL East Coast
4:27:01 PM Senator Clemens questions
4:28:35 PM Mr.Dyga resumes
4:37:28 PM Chair Lee questions
4:37:39 PM Mr.Dyga
4:38:39 PM Questions?
4:39:18 PM Jennifer Wilkerson representing National Center for Construction Education and Research
4:46:00 PM Questions?
4:46:46 PM Ms.Wilkerson finishes presentation

4:48:45 PM Ms.Wilkerson
4:48:54 PM Chair Lee thanks Ms.Wilkerson
4:49:28 PM Back on tab 5
4:49:32 PM SB 534
4:49:36 PM Appearance cards?
4:50:26 PM Gail Marie Perry representing Communications Workers of America
4:52:11 PM Casey Cook representing Florida League of Cities
4:53:00 PM Teresa King representing Florida Building and Construction Trades
4:53:56 PM J.B. Clar representing Florida Electric Workers Association
4:55:27 PM Zefnia Durham against
4:55:53 PM Barbara Devane representing FL Now in opposition
4:56:15 PM Warren Husband representing Florida Associated General Contractors Council
4:56:23 PM Jess McCarty representing Miami-Dade County
4:57:22 PM Karen Woodall representing Florida Center for Fiscal and Economic Policy
4:58:06 PM Rich Templin representing Florida AFL-CIO in opposition
5:02:18 PM Steven Hall representing himself in opposition
5:02:40 PM Scott Duhamel representing himself in opposition
5:02:55 PM Bruce Kershmer representing Northwest Florida Section AGC
5:03:07 PM Donald Persson in opposition
5:03:18 PM Jeff Levinson representing himself in opposition
5:03:30 PM Arthur Rosenberg representing Florida Legal Services in opposition
5:04:17 PM Carol Bowen representing Associated Builders and Contractors of Florida
5:07:05 PM Questions?
5:08:45 PM Chair Lee questions
5:08:54 PM Chair Lee questions
5:09:07 PM Ms.Bowen
5:09:43 PM Diana Arteaga representing City of Miami
5:10:31 PM Questions?
5:11:16 PM Turns Chair over to Clemens
5:11:30 PM Chair Lee offers a hand written amendment
5:12:32 PM Any objection?
5:12:39 PM Amendment introduced
5:12:52 PM Senator Perry
5:13:01 PM Amendment is passed and introduced
5:13:05 PM Chair Lee resumes chair
5:13:13 PM Debate on bill as amended?
5:13:21 PM Senator Perry closes on the bill
5:16:04 PM Roll Call on SB 534
5:16:44 PM Bill reported favorably
5:16:47 PM Tab 2 SB 80
5:16:52 PM Senator Steube
5:17:20 PM Senator Steube on SB 80
5:17:41 PM Steube on amendment barcode 281710
5:18:45 PM Questions on the amendment?
5:18:53 PM Senator Rodriguez questions
5:22:34 PM Senator Steube
5:22:41 PM Senator Rodriguez
5:24:48 PM Senator Rodriguez
5:26:13 PM Senator Steube answers
5:27:04 PM Senator Rodriguez
5:28:37 PM Senator Steube
5:28:48 PM Chair Lee
5:29:21 PM Senator Rodriguez
5:30:12 PM Senator Simmons
5:32:49 PM Further questions on the amendment?
5:33:03 PM Appearance cards
5:33:07 PM Casey Cook representing Florida League of Cities
5:33:39 PM Barbara Peterson representing First Amendment Foundation
5:37:11 PM Questions?
5:37:16 PM Senator Clemens
5:37:43 PM Ms.Peterson
5:37:50 PM Senator Clemens

5:38:08 PM Ms.Peterson
5:38:57 PM Shane Bennett representing The Florida Police Chiefs Association in support
5:39:07 PM Chris Lyon representing Florida Association of Special Districts
5:39:22 PM Chris Spoonover representing City of Venice
5:39:29 PM Sam Moreley representing Florida Press Association
5:39:41 PM Jerry Paul representing City of Punta Gorda
5:40:05 PM Buddy Jacobs representing State Attorneys of Florida
5:41:44 PM Questions?
5:42:09 PM Late filed written amendment
5:42:20 PM No objection to filing a late filed amendment
5:42:33 PM Senator Rodriguez explains the late filed amendment
5:42:54 PM Questions to the amendment?
5:42:59 PM Senator Simmons
5:44:00 PM Senator Simmons questions the amendment
5:46:01 PM Questions?
5:46:20 PM Senator Steube
5:46:32 PM Any debate on amendment?
5:47:04 PM Senator Rodriguez closes on amendment
5:47:14 PM Amendment to the amendment is adopted
5:47:27 PM Debate?
5:47:36 PM Senator closes on amendment
5:48:01 PM Roll call
5:48:11 PM Amendment is adopted
5:48:22 PM Back on bill as amended
5:48:27 PM Jorge Chamizo representing Novitex in support
5:48:30 PM JB Clark representing Florida Electrical Workers Association
5:48:38 PM Diane Arteaga representing The City of Miami
5:48:43 PM Teressa King representing Florida Building & Construction Trades
5:48:48 PM Natalie King representing Charter School Leaders Hillsborough County
5:48:53 PM Gail Marie Perry representing Communication Workers of America Council of Florida
5:49:00 PM Zefnia Durham in opposition
5:49:08 PM Ben Wilcox in opposition
5:49:12 PM Laura Youmars representing Florida Association of Counties
5:49:23 PM Barbara Devane representing FL Now
5:49:51 PM Rich Templin representing Florida AFL-CIO
5:52:55 PM Marshall Oghtree representing United Facility of Florida
5:53:00 PM Steven Hall representing himself in opposition
5:53:06 PM Eric Prutsman representing Florida Fire Chiefs Association support
5:53:11 PM Jeff Levinson representing himself in opposition
5:53:16 PM Glenda Abicid in opposition
5:53:25 PM Donald Persson representing himself in opposition
5:53:28 PM Shane Bennet representing The Florida Police Chiefs Association
5:53:32 PM
5:53:37 PM Matt Dunagan representing Florida Sheriffs Association
5:53:41 PM Leslie Dughi representing City of North Port
5:53:48 PM Beth Rawkins representing Florida Business Watch in support
5:53:55 PM Jerry Paul representing City of Punta Gorda in support
5:54:03 PM Debate on the bill as amended
5:54:36 PM Senator Rodriguez
5:54:40 PM Senator Clemens
5:55:12 PM Further debate?
5:55:21 PM Senator Steube recognized to close on the bill
5:56:03 PM Roll Call on SB 80
5:56:25 PM Bill is reported favorably
5:56:34 PM Senator Brandes on bill 428
5:56:54 PM 3 amendments
5:56:58 PM All withdrawn
5:57:08 PM Kraig Conn Florida League of Cities opposes bill
5:57:21 PM Christopher Emmanuel representing Florida Chamber of Commerce in support
5:57:33 PM Andrew Hosek representing Americans for Prosperity in support
5:57:40 PM JB Clar representing Florida Electrical Workers Association in opposition
5:57:45 PM Debate on the bill?

5:57:59 PM	Senator Brandes closes on bill
5:58:07 PM	Roll call on SB 428
5:58:15 PM	Voted reported favorably
5:58:21 PM	Meeting Adjourned
5:58:28 PM	