

CS/CS/SB 220 by GO, TR, Simpson; (Similar to CS/H 0145) Commercial Motor Vehicle Review Board

262924 A S RCS FP, Bean Delete L.22 - 61: 04/02 03:31 PM

SB 520 by Grimsley; (Identical to H 0221) Long-term Care Insurance

CS/CS/SB 600 by CM, BI, Richter; (Similar to CS/H 0189) Insurance Guaranty Associations

SB 956 by Simpson; (Identical to H 0257) Freight Logistics Zones

SB 960 by Lee; (Compare to CS/CS/H 0747) Florida Bright Futures Scholarship Program

835856 D S RCS FP, Legg Delete everything after 04/02 03:31 PM

SB 1140 by Montford; (Compare to CS/CS/H 0747) Bright Futures Scholarship Program

884566 PCS S RCS FP, AED 04/02 03:31 PM

SB 7002 by CM; (Similar to CS/1ST ENG/H 7019) Renaming Workforce Florida, Inc.

898456 A S RCS FP, Hays Delete L.2934: 04/02 03:31 PM

CS/SB 102 by JU, Hukill (CO-INTRODUCERS) Joyner, Latvala; (Similar to CS/H 0313) Digital Assets

473040 A S RCS FP, Hukill Delete L.144: 04/02 03:31 PM

CS/SB 608 by RI, Stargel; (Similar to CS/CS/H 0707) Real Estate Brokers and Appraisers

138190 PCS S RCS FP, AGG 04/02 03:31 PM
963650 PCS:A S RCS FP, Stargel Delete L.107 - 122: 04/02 03:31 PM

SB 676 by Benacquisto; (Identical to H 0621) Voluntary Contributions to End Breast Cancer

CS/SB 842 by BI, Benacquisto; (Similar to CS/H 0715) Citizens Property Insurance Corporation Eligibility for Coverage

SB 1220 by Grimsley (CO-INTRODUCERS) Evers, Soto; (Similar to CS/H 0917) Cattle Market Development Act

108472 D S RCS FP, Hays Delete everything after 04/02 03:31 PM

CS/SB 186 by RI, Latvala (CO-INTRODUCERS) Gibson, Clemens; (Similar to H 0301) Malt Beverages

454540 A S RCS FP, Bradley btw L.47 - 48: 04/02 03:31 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Flores, Chair
Senator Bradley, Vice Chair

MEETING DATE: Thursday, April 2, 2015**TIME:** 11:30 a.m.—1:00 p.m.**PLACE:** Pat Thomas Committee Room, 412 Knott Building**MEMBERS:** Senator Flores, Chair; Senator Bradley, Vice Chair; Senators Abruzzo, Bean, Clemens, Hays, Hukill, Legg, Margolis, Sachs, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 220 Governmental Oversight and Accountability / Transportation / Simpson (Similar CS/H 145)	Commercial Motor Vehicle Review Board; Providing for an appeal to the board for an excess weight citation under certain circumstances; providing for appointment of additional members by the Governor and the Commissioner of Agriculture; providing for removal of members by the Governor under certain circumstances; providing for action by a quorum of the board; requiring the Department of Transportation to provide space and video conference capability at each district office to enable a person requesting a hearing to appear remotely before the board, etc. TR 03/12/2015 Fav/CS GO 03/23/2015 Fav/CS FP 04/02/2015 Fav/CS	Fav/CS Yeas 11 Nays 0
2	SB 520 Grimsley (Identical H 221)	Long-term Care Insurance; Providing additional forms for the mandatory offer of nonforfeiture benefits in long-term care insurance policies, etc. BI 02/17/2015 Favorable CF 03/19/2015 Favorable FP 04/02/2015 Favorable	Favorable Yeas 11 Nays 0
3	CS/CS/SB 600 Commerce and Tourism / Banking and Insurance / Richter (Similar CS/H 189)	Insurance Guaranty Associations; Revising the definition of the term "asset" to include Florida Insurance Guaranty Association assessments, under certain conditions, for purposes of determining the financial condition of an insurer; transferring a provision relating to the obligation of the Florida Life and Health Insurance Guaranty Association to pay valid claims under certain circumstances, etc. BI 02/17/2015 Fav/CS CM 03/16/2015 Fav/CS FP 04/02/2015 Favorable	Favorable Yeas 11 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 2, 2015, 11:30 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 956 Simpson (Identical H 257)	Freight Logistics Zones; Authorizing a county or two or more contiguous counties to designate a geographic area or areas within its jurisdiction as a freight logistics zone; requiring the adoption of a strategic plan which must include certain information; providing that certain projects within freight logistics zones may be eligible for priority in state funding and certain incentive programs; providing evaluation criteria for freight logistics zones, etc. CA 03/10/2015 Favorable ATD 03/19/2015 Favorable FP 04/02/2015 Favorable	Favorable Yeas 11 Nays 0
With subcommittee recommendation - Transportation and Economic Development Appropriations			
5	SB 960 Lee (Compare CS/CS/H 747)	Florida Bright Futures Scholarship Program; Requiring a student, as a prerequisite for the Florida Academic Scholars award, the Florida Medallion Scholars award, or the Florida Gold Seal Vocational Scholars award, to identify a social or civic issue or a professional area of interest and develop a plan for his or her personal involvement in addressing the issue or learning about the area; prohibiting the student from receiving remuneration or academic credit for the volunteer service work performed, etc. HE 03/10/2015 Favorable AED 03/19/2015 Favorable FP 04/02/2015 Fav/CS	Fav/CS Yeas 11 Nays 0
With subcommittee recommendation - Education Appropriations			
A proposed committee substitute for the following bill (SB 1140) is available:			
6	SB 1140 Montford (Compare CS/CS/H 747)	Bright Futures Scholarship Program; Providing that the initial award and renewal period for students who are unable to accept an initial award immediately after completion of high school due to a full-time religious or service obligation begins upon the completion of the religious or service obligation, etc. HE 03/10/2015 Favorable AED 03/19/2015 Fav/CS FP 04/02/2015 Fav/CS	Fav/CS Yeas 11 Nays 0
With subcommittee recommendation - Education Appropriations			

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 2, 2015, 11:30 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 7002 Commerce and Tourism (Similar CS/H 7019)	Renaming Workforce Florida, Inc.; Renaming Workforce Florida, Inc., as CareerSource Florida, Inc., etc. GO 02/03/2015 Favorable FP 04/02/2015 Fav/CS	Fav/CS Yeas 11 Nays 0
8	CS/SB 102 Judiciary / Hukill (Similar CS/H 313)	Digital Assets; Creating the “Florida Fiduciary Access to Digital Assets Act”; authorizing a personal representative to have access to specified digital assets of a decedent under certain circumstances; authorizing a guardian to have access to specified digital assets of a ward under certain circumstances; providing the rights of a fiduciary relating to digital assets; providing requirements for compliance for a custodian, a personal representative, a guardian, an agent, a trustee, or another person that is entitled to receive and collect specified digital assets, etc. JU 02/03/2015 Fav/CS FP 04/02/2015 Fav/CS RC	Fav/CS Yeas 7 Nays 4

A proposed committee substitute for the following bill (CS/SB 608) is available:

9	CS/SB 608 Regulated Industries / Stargel (Similar CS/H 707)	Real Estate Brokers and Appraisers; Requiring the Florida Real Estate Commission to adopt certain rules pertaining to broker registration on a temporary, emergency basis; revising the supervision requirements for registered trainee appraisers; requiring an appraiser to prepare and retain a work file in certain circumstances; providing that duly authorized agents and employees of the department may inspect an appraisal management company at all reasonable hours, etc. RI 03/04/2015 Fav/CS AGG 03/17/2015 Fav/CS FP 04/02/2015 Fav/CS	Fav/CS Yeas 11 Nays 0
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With subcommittee recommendation - General Government Appropriations

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 2, 2015, 11:30 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 676 Benacquisto (Identical H 621, Compare H 7055)	Voluntary Contributions to End Breast Cancer; Requiring the application forms for motor vehicle registration and renewal of registration to include language permitting the applicant to make a voluntary contribution to End Breast Cancer to be distributed to a specified organization and used for specified purposes; requiring an application form for a driver license or identification card to include language permitting the applicant to make a voluntary contribution to End Breast Cancer to be distributed to a specified organization, etc. TR 03/05/2015 Favorable ATD 03/19/2015 Favorable FP 04/02/2015 Favorable	Favorable Yeas 11 Nays 0
With subcommittee recommendation - Transportation and Economic Development Appropriations			
11	CS/SB 842 Banking and Insurance / Benacquisto (Similar CS/H 715)	Citizens Property Insurance Corporation Eligibility for Coverage; Deleting a provision prohibiting certain improvements to major structures from being eligible for coverage by the Citizens Property Insurance Corporation; prohibiting coverage for major structures rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area by a specified amount, etc. BI 03/10/2015 Fav/CS CA 03/23/2015 Favorable FP 04/02/2015 Favorable	Favorable Yeas 11 Nays 0
12	SB 1220 Grimsley (Similar CS/H 917)	Cattle Market Development Act; Renaming the Beef Market Development Act as the Cattle Market Development Act; renaming the Florida Beef Council, Inc., as the Florida Cattle Enhancement Board, Inc.; authorizing the Cattle Enhancement Board to impose additional assessments; removing provisions authorizing the board to sue and be sued without individual liability of the members, to maintain a financial reserve for emergency use, to appoint advisory groups, to accept grants, donations, contributions, or gifts from any source, and to pay other organizations for work or services, etc. AG 03/10/2015 Favorable AGG 03/17/2015 Favorable FP 04/02/2015 Fav/CS	Fav/CS Yeas 11 Nays 0
With subcommittee recommendation - General Government Appropriations			

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 2, 2015, 11:30 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	CS/SB 186 Regulated Industries / Latvala (Similar H 301, Compare CS/CS/H 107)	Malt Beverages; Revising the exception for the licensing of malt beverage manufacturers as vendors; authorizing malt beverage tastings upon certain licensed premises; authorizing the sale of malt beverages packaged in individual containers of certain sizes if they are filled at the point of sale by certain licenseholders; requiring each container to be imprinted or labeled with certain information and have an unbroken seal or be incapable of being immediately consumed, etc. RI 02/04/2015 Temporarily Postponed RI 02/18/2015 Fav/CS CM 03/16/2015 Favorable FP 04/02/2015 Fav/CS	Fav/CS Yeas 11 Nays 0

Other Related Meeting Documents

An electronic copy of the Appearance Request form is available to download from any Senate Committee page on the Senate's website, www.flssenat.gov.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/CS/SB 220

INTRODUCER: Fiscal Policy Committee; Governmental Oversight and Accountability Committee;
Transportation Committee; and Senator Simpson

SUBJECT: Commercial Motor Vehicle Review Board

DATE: April 3, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Eichin	TR	Fav/CS
2. Peacock	McVaney	GO	Fav/CS
3. Pace	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 220 addresses various issues relating to commercial motor vehicle laws and the Commercial Motor Vehicle Review Board (Review Board). Related to overweight citations, the bill:

- Authorizes a driver of a commercial motor vehicle that receives an overweight citation for excess weight measured by portable scales to proceed to the nearest fixed scale at an official weigh station or certified public scale for verification of weight and requires the Florida Highway Patrol to escort the driver to the nearest fixed scale;
- Voids the citation if the vehicle is found to be in compliance with weight requirements at the fixed scale; and
- Repeals provisions authorizing the Florida Highway Patrol to require vehicles be driven to the nearest weigh station or public scales for verification of weight and requiring an officer to weigh a vehicle at a fixed scale rather than by portable scales upon the request of the driver;

Related to the Review Board, the bill:

- Revises the membership and related provisions of the Review Board; and
- Requires the Department of Transportation (DOT) to provide video conference capability at each of its district offices to enable a person requesting a hearing before the Commercial Motor Vehicle Review Board to appear remotely.

The bill has an indeterminate fiscal impact (see Section V.).

II. Present Situation:

Weighing of Commercial Motor Vehicles and Loads

Under current law, any officer of the Florida Highway Patrol with reason to believe the weight of a commercial motor vehicle and its load is unlawful is authorized to require the driver to stop and have the vehicle weighed by either a portable or fixed scales. The officer may require the vehicle to be driven to the nearest fixed scale at a weigh station or public scales if such a facility is located within five miles.¹

Review of Commercial Motor Vehicle Weight, Size, and Safety Penalties

Law enforcement officers of various agencies and DOT weight inspectors are authorized to enforce current laws and rules relating to commercial motor vehicle weight, size, and safety.² Various penalties are imposed for violations of statutory weight and load limitations and safety requirements. All penalties collected are deposited into the State Transportation Trust Fund and used to repair and maintain state roads and enforce statutory weight and load requirements.³

The Commercial Motor Vehicle Review Board is a statutorily created body established within the DOT.⁴ The Review Board is authorized to hear challenges to any penalty imposed upon any commercial motor vehicle or person “relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations.”⁵ Any person upon whom a civil penalty is imposed may apply to the Review Board for a hearing, and the Review Board is authorized to modify, cancel, revoke, or sustain such penalties.⁶

Review Board Membership

The Review Board has three permanent members: the Secretary of Transportation, the Executive Director of DHSMV, and the Commissioner of Agriculture (or their designees).⁷ The Secretary of Transportation is the chair and is responsible for administrative functions of the Review Board.⁸ Each permanent member may also designate one additional person to be a member.⁹ Responsibilities may be carried out by meeting as a single group or as subgroups that consist of one representative of each permanent member.¹⁰

¹ Section 316.545(1) and (9), F.S.

² See s. 316.640, F.S.

³ See ss. 316.3025(7)(b), 316.516(5), 316.545(6), and 316.550(11), F.S.

⁴ Section 316.545(7), F.S.

⁵ *Id.*

⁶ Section 316.545(8), F.S.

⁷ Section 316.545(7), F.S.

⁸ Section 316.545(7)(a) and (d), F.S.

⁹ Section 316.545(7)(b), F.S. DOT advises no such additional members have ever been appointed to the Review Board. Telephone conversation between Senate Transportation Committee and DOT Legislative Staff, March 9, 2015.

¹⁰ Section 316.545(7)(c), F.S.

Review Board Procedure

The Review Board is authorized to hold sessions and conduct proceedings at any place within the state.¹¹ The Review Board schedules meetings based on a sufficient number of requests for review to justify the expense of holding a meeting, but no less than six meetings per year are scheduled at various locations throughout the state.¹²

Any person wishing to have a penalty considered by the Review Board must submit a written request for hearing no later than 60 days after the date on the Notice of Violation.¹³ The Review Board determines the location of each meeting.¹⁴ However, any person may request in writing at least 14 days before a scheduled meeting.¹⁵

- To have a review of his or her case be held at a specific city at which the Review Board regularly meets;
- To be heard at the next meeting held in the geographic area of the state in which his or her principal place of business is located; or
- To be heard at the next meeting of the Review Board, regardless of the geographic area.

The Review Board considers testimony or other evidence supporting the modification, cancellation, or revocation of a penalty.¹⁶ The Review Board generally considers only penalties that have been paid;¹⁷ however, the Review Board will consider unpaid penalties if review occurs at its next meeting, regardless of location.¹⁸

A person may appear before the Review Board in person, through an authorized representative, or through legal counsel.¹⁹ No appearance is required if the person submits evidence or arguments no less than 14 days prior to the scheduled hearing.²⁰ If a person does not appear and does not submit evidence or arguments, penalties are sustained.²¹ Continuances are granted upon a showing of good cause.²²

The Review Board is required to render its written, final decision and notify the person requesting the hearing within 30 days after the meeting.²³ A rehearing may be requested, within 14 days of the final decision of the Review Board, if additional evidence is presented.²⁴ If the

¹¹ Section 316.545(7)(e), F.S.

¹² Rule 14A-1.004(1), F.A.C. Also, see the DOT website for the Review Board's 2015 meeting schedule, indicating 12 meetings, one each month: four in Fort Lauderdale, two in Tampa, four in Tallahassee, and two in Orlando, *available at* http://www.dot.state.fl.us/trafficoperations/Traf_Incident/CMVRB/CMVRB.shtm (last visited March 29, 2015).

¹³ Rule 14A-1.004(3), F.A.C.

¹⁴ Rule 14A-1.004(1)(b), F.A.C.

¹⁵ *Id.*

¹⁶ Rule 14A-1.004(1)(a), F.A.C.

¹⁷ Rule 14A-1.004(1)(a), F.A.C.

¹⁸ Rule 14A-1.004(1)(c), F.A.C.

¹⁹ Rule 14A-1.004(4), F.A.C.

²⁰ Rule 14A-1.004(4)(a), F.A.C.

²¹ Rule 14A-1.004(4)(b), F.A.C.

²² Rule 14A-1.004(6), F.A.C.

²³ Rule 14A-1.004(7), F.A.C.

²⁴ *Id.* Also see DOT, Commercial Motor Vehicle Review Board, *available at* http://www.dot.state.fl.us/trafficoperations/Traf_Incident/CMVRB/CMVRB.shtm (last visited March 29, 2015).

Review Board decision results in any refund, a refund check is issued by the DHSMV “in a timely manner.”²⁵

Recent Review Board Hearing and Refund Data

The DOT supplied the following data about the Review Board:

In FY 2013/2014, the [Review] Board heard 1172 cases that represented a total of \$1,363,088.45 in fines. Out of these 1172 cases, relief was granted on 454 of the cases, or 38.74%, for a total refunded amount of \$552,332.94, or 40.23%. The total amount of citations issued and fines collected for 2014 was 80,662 citations and \$9,284,465.20, which approximates to 1.4% of the citations issued and 14.79% of the dollars being reviewed by the Board.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 316.545(2)(a), F.S., to allow a driver issued a citation for exceeding weight limits as measured by portable scales to proceed to the nearest fixed scale at an official weigh station or at a certified public scale for verification of weight. The bill requires the officer to escort the driver to the reweigh. The citation is void if the vehicle is found to be in compliance with weight requirements.

The bill repeals provisions authorizing the Florida Highway Patrol to require vehicles be driven to the nearest weigh station or public scales for verification of compliance with weight and load requirements and requiring an officer to weigh a vehicle at a fixed scale rather than by portable scales upon the request of the driver.

Section 2 amends s. 316.545(7), effective October 1, 2015, to revise the membership of the Review Board by adding four additional members. The Governor must appoint one member each from the road construction industry and the trucking industry, and one member with a general business or legal background. The Commissioner of Agriculture must appoint one member from the agriculture industry. All four members serve two-year terms, must be registered voters and citizens of Florida, and must possess business experience in the private sector. The Governor may remove any of these members for misconduct, malfeasance, misfeasance, or nonfeasance in office. Each member is required to take an oath to perform board duties honestly, faithfully, impartially, and without neglect.

Vacancies during the term of one of the new members may be filled only for the remainder of the unexpired term. A vacancy does not impair the right of a quorum to exercise the rights and duties of the Review Board. Four members constitute a quorum, and the vote of four members is necessary for any action taken.

Under the bill, the FDOT is required to provide space and video conferencing capability at each of the FDOT district offices to enable a person requesting a hearing before the Review Board to

²⁵ *Id.*

²⁶ See the 2015 DOT Legislative Bill Analysis for SB 220 (on file in the Senate Transportation Committee).

appear remotely, as an alternative to physical appearance or any other method of appearance authorized by rule.

Section 3 requires the appointment of the additional four members to be made by September 1, 2015, for terms beginning October 1, 2015.

Section 4 provides the bill takes effect July 1, 2015, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A positive but indeterminate fiscal impact may be realized by the private sector if the revised membership of the Review Board results in increased refunds of citations. Appointed board members may experience loss of income while performing services on the Review Board.

C. Government Sector Impact:

An indeterminate but negative fiscal impact may be realized by the state if the revised membership of the Review Board results in increased refunds of citations. In addition, more penalties may be revoked if the fixed scales indicate that the vehicle was in compliance with the weight requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.545 of the Florida Statutes.

IX. Additional Information:

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

CS/CS/CS by Fiscal Policy Committee on April 2, 2015:

The CS/CS/CS repeals a provision authorizing the Florida Highway Patrol to require vehicles be driven to the nearest weigh station or public scales for verification of compliance with weight and load requirements and requiring an officer to weigh a vehicle at a fixed scale rather than by portable scales upon the request of the driver. The bill instead allows a driver issued a citation for exceeding weight limits as measured by portable scales to proceed to the nearest fixed scale at an official weigh station or at a certified public scale for verification of weight. The bill requires the officer to escort the driver to the reweigh. The citation is void if the vehicle is found to be in compliance with weight requirements.

CS/CS by Governmental Oversight and Accountability on March 23, 2015:

The CS/CS modifies the CS by authorizing a driver of a commercial motor vehicle that receives an overweight citation for excess weight measured by portable scales to proceed to the next weigh station or public scales for verification of weight. If the vehicle is found to be in compliance with the weight requirements at the fixed scale, the driver may submit by U.S. mail the portable scale citation and the certified scale ticket to the Review Board for revocation of the citation.

CS by Transportation on March 12, 2015:

The CS modifies the bill by:

- Authorizing a driver of a commercial motor vehicle that receives an overweight citation for excess weight measured by portable scales to request an escort to the nearest fixed scale for a re-weighing;
- Voiding the citation if the vehicle is found to be in compliance with applicable weight requirements at the fixed scale;
- Requiring DOT to provide video conference capability at each of its district offices to enable a person requesting a hearing before the Review Board to appear remotely; and
- Making a technical cross-reference insertion.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2015	.	
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The Committee on Fiscal Policy (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 22 - 61
and insert:

Section 1. Subsection (1) and paragraph (a) of subsection
(2) of section 316.545, Florida Statutes, are amended to read:

316.545 Weight and load unlawful; special fuel and motor
fuel tax enforcement; inspection; penalty; review.—

(1) Any officer of the Florida Highway Patrol having reason
to believe that the weight of a vehicle and load is unlawful is
authorized to require the driver to stop and submit to a



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weighing of the same by means of either portable or fixed scales
~~and may require that such vehicle be driven to the nearest weigh~~
~~station or public scales, provided such a facility is within 5~~
~~highway miles. Upon a request by the vehicle driver, the officer~~
~~shall weigh the vehicle at fixed scales rather than by portable~~
~~scales if such a facility is available within 5 highway miles.~~

Anyone who refuses to submit to such weighing obstructs an
officer pursuant to s. 843.02 and is guilty of a misdemeanor of
the first degree, punishable as provided in s. 775.082 or s.
775.083. Anyone who knowingly and willfully resists, obstructs,
or opposes a weight and safety officer while refusing to submit
to such weighing by resisting the officer with violence to the
officer's person pursuant to s. 843.01 is guilty of a felony of
the third degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

(2)(a) Whenever an officer of the Florida Highway Patrol or
weight inspector of the Department of Transportation, upon
weighing a vehicle or combination of vehicles with load,
determines that the axle weight or gross weight is unlawful, the
officer may require the driver to stop the vehicle in a suitable
place and remain standing until a determination can be made as
to the amount of weight thereon and, if overloaded, the amount
of penalty to be assessed as provided herein. However, any gross
weight over and beyond 6,000 pounds beyond the maximum herein
set shall be unloaded and all material so unloaded shall be
cared for by the owner or operator of the vehicle at the risk of
such owner or operator. Except as otherwise provided in this
chapter, to facilitate compliance with and enforcement of the
weight limits established in s. 316.535, weight tables published



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pursuant to s. 316.535(7) shall include a 10-percent scale tolerance and shall thereby reflect the maximum scaled weights allowed any vehicle or combination of vehicles. As used in this section, scale tolerance means the allowable deviation from legal weights established in s. 316.535. Notwithstanding any other provision of the weight law, if a vehicle or combination of vehicles does not exceed the gross, external bridge, or internal bridge weight limits imposed in s. 316.535 and the driver of such vehicle or combination of vehicles can comply with the requirements of this chapter by shifting or equalizing the load on all wheels or axles and does so when requested by the proper authority, the driver shall not be held to be operating in violation of said weight limits. When a driver is issued a citation for exceeding the weight limits established in s. 316.535 as determined by means of portable scales, the driver may request to proceed to the nearest fixed scale at an official weigh station or at a certified public scale for verification of weight. The officer who issued the citation must escort the driver at all times and must attend the reweighing. If the vehicle or combination of vehicles is found to be in compliance with the weight requirements of this chapter at the fixed scale, the citation is void.

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

And the title is amended as follows:

Delete lines 3 - 6

and insert:

Board; amending s. 316.545, F.S.; deleting a provision authorizing any officer of the Florida Highway Patrol



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70 to require that a vehicle be driven to the nearest
71 weigh station or public scales under certain
72 circumstances; deleting a provision requiring the
73 officer to weigh the vehicle at fixed scales rather
74 than by portable scales upon a request by the vehicle
75 driver under certain circumstances; authorizing a
76 driver to request to proceed to the nearest fixed
77 scale at an official weigh station or a certified
78 public scale when he or she is issued a citation for
79 exceeding weight limits; requiring the officer issuing
80 the citation to escort the driver and attend the
81 reweighing; voiding the citation if the vehicle or
82 combination of vehicles is found to be in compliance
83 with certain weight requirements; revising the
84 membership of

By the Committees on Governmental Oversight and Accountability;
and Transportation; and Senator Simpson

585-02712-15

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A bill to be entitled

An act relating to the Commercial Motor Vehicle Review Board; amending s. 316.545, F.S.; providing for an appeal to the board for an excess weight citation under certain circumstances; providing for citation revocation by the board; revising the membership of the board; providing for appointment of additional members by the Governor and the Commissioner of Agriculture; providing for terms of the additional members; providing qualifications for such members; providing for removal of members by the Governor under certain circumstances; providing for action by a quorum of the board; requiring the Department of Transportation to provide space and video conference capability at each district office to enable a person requesting a hearing to appear remotely before the board; requiring that the additional appointments be made by a specified date; providing effective dates.

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

Section 1. Paragraph (a) of subsection (2) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(2) (a) Whenever an officer of the Florida Highway Patrol or weight inspector of the Department of Transportation, upon weighing a vehicle or combination of vehicles with load, determines that the axle weight or gross weight is unlawful, the

Page 1 of 5

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

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officer may require the driver to stop the vehicle in a suitable place and remain standing until a determination can be made as to the amount of weight thereon and, if overloaded, the amount of penalty to be assessed as provided herein. However, any gross weight over and beyond 6,000 pounds beyond the maximum herein set shall be unloaded and all material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator. Except as otherwise provided in this chapter, to facilitate compliance with and enforcement of the weight limits established in s. 316.535, weight tables published pursuant to s. 316.535(7) shall include a 10-percent scale tolerance and shall thereby reflect the maximum scaled weights allowed any vehicle or combination of vehicles. As used in this section, scale tolerance means the allowable deviation from legal weights established in s. 316.535. Notwithstanding any other provision of the weight law, if a vehicle or combination of vehicles does not exceed the gross, external bridge, or internal bridge weight limits imposed in s. 316.535 and the driver of such vehicle or combination of vehicles can comply with the requirements of this chapter by shifting or equalizing the load on all wheels or axles and does so when requested by the proper authority, the driver shall not be held to be operating in violation of said weight limits. When a driver is issued a citation for exceeding weight limits established in s. 316.535 determined by means of portable scales, the driver may proceed to the next weigh station or public scales for verification of weight. If the vehicle is found to be in compliance with the weight requirements of this chapter at the fixed scale, the driver may submit by United States mail both

Page 2 of 5

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

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the portable scale citation and certified scale ticket to the Commercial Motor Vehicle Review Board for revocation of the citation.

Section 2. Effective October 1, 2015, subsection (7) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(7) There is created within the Department of Transportation the Commercial Motor Vehicle Review Board, consisting of three permanent members who shall be the Secretary of the Department of Transportation, the executive director of the Department of Highway Safety and Motor Vehicles, and the Commissioner of Agriculture, or their authorized representatives, and four additional members appointed pursuant to paragraph (b), which may review any penalty imposed upon any vehicle or person under the provisions of this chapter relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations.

(a) The Secretary of the Department of Transportation or his or her authorized representative shall be the chair of the review board.

(b) The Governor shall appoint one member from the road construction industry, one member from the trucking industry, and one member with a general business or legal background. The Commissioner of Agriculture shall appoint one member from the agriculture industry. Each member appointed under this paragraph must be a registered voter and resident of the state and must possess business experience in the private sector. Members

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appointed pursuant to this paragraph shall each serve a 2-year term. A vacancy occurring during the term of a member appointed under this paragraph shall be filled only for the remainder of the unexpired term. Members of the board appointed under this paragraph may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office. ~~Each permanent member of the review board may designate one additional person to be a member of the review board.~~

(c) Each member, before entering upon his or her official duties, shall take and subscribe to an oath before an official authorized by law to administer oaths that he or she will honestly, faithfully, and impartially perform the duties devolving upon him or her in office as a member of the review board and that he or she will not neglect any duties imposed upon him or her by s. 316.3025, s. 316.550, or this section. ~~The review board may execute its responsibilities by meeting as a single group or as subgroups consisting of one authorized representative of each permanent member.~~

(d) The chair of the review board is responsible for the administrative functions of the review board.

(e) Four members of the board constitute a quorum, and the vote of four members shall be necessary for any action taken by the board. A vacancy on the board does not impair the right of a quorum of the board to exercise all of the rights and perform all of the duties of the board.

~~(f)~~ (e) The review board may hold sessions and conduct proceedings at any place within the state. As an alternative to physical appearance, and in addition to any other method of appearance authorized by rule, the Department of Transportation

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117 shall provide space and video conference capability at each
118 district office to enable a person requesting a hearing to
119 appear remotely before the board, regardless of the physical
120 location of the board proceeding.

121 Section 3. The appointment of additional members to the
122 Commercial Motor Vehicle Review Board in accordance with the
123 changes made by this act to s. 316.545, Florida Statutes, shall
124 be made by September 1, 2015, for terms beginning October 1,
125 2015.

126 Section 4. Except as otherwise expressly provided in this
127 act, this act shall take effect July 1, 2015.
128
129

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/15

Meeting Date

220

Bill Number (if applicable)

Topic Commercial Motor Vehicle Review

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Legislative Affairs Dir

Address 315 S Calhoun St #850

Phone 222 2557

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 FL Farm Bureau

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)

4/2/2014
Meeting/Date

SB 220
Bill Number (if applicable)

Topic Support expanding Corn Motor Vehicle Bond Amendment Barcode (if applicable)

Name Mia Wade - Southeastern Wood Producers Assoc.

Job Title Corp Operations - FL Programs

Address 37514 W 1st St. #101

Phone 904.845-7133

Hilliard FL 32046
City State Zip

Email mwade@swpa.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Southeastern Wood Producers Assoc.

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)

4/2/15

Meeting Date

220

Bill Number (if applicable)

Topic Commercial Motor Vehicle

Amendment Barcode (if applicable)

Name Jim Spratt

Job Title _____

Address PO Box 10011

Street

Phone 850-228-1296

TALLAHASSEE

City

FL

State

32302

Zip

Email jim@magnoliastrategicllc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA FORESTRY ASSOCIATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON

18th District

March 24, 2015

Honorable Anitere Flores
Committee on Fiscal Policy
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairwoman Flores,

Please place Senate Bill 220 relating to the Commercial Motor Vehicle Review, on the next Committee on Fiscal Policy agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

CC: Jennifer Hrdlicka, Staff Director
Tamra Lyon, Committee Administrative Assistant

REPLY TO:

- ☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- ☐ Post Office Box 938, Brooksville, Florida 34605
- ☐ Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 520

INTRODUCER: Senator Grimsley

SUBJECT: Long-term Care Insurance

DATE: April 1, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	Favorable
2.	Hendon	Hendon	CF	Favorable
3.	Goedert	Hrdlicka	FP	Favorable

I. Summary:

SB 520 allows an insurer to offer a nonforfeiture protection provision in a long-term care insurance policy that provides for the return of premium if the insured dies or the policy is completely surrendered or canceled. The bill is not expected to have a fiscal impact on the state.

II. Present Situation:

Long-term Care Insurance Policies

Long-term care insurance specifically covers the costs of nursing homes, assisted living, home health care, and other long-term care services. A long-term care insurance policy is defined as:

Any insurance policy or rider ... designed to provide coverage on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital.¹

A long-term care insurance policy may not be canceled, nonrenewed, or terminated because of the age or health of the policyholder.² The Office of Insurance Regulation (OIR) may authorize nonrenewal on a statewide basis if renewal would jeopardize the insurer's solvency or if the insurer would experience substantial and unexpected loss that could not be reasonably mitigated or remedied.³ A long-term care policy may be canceled for nonpayment of premium. If a policy is canceled for nonpayment, the policyholder must be provided with a grace period of at least 30

¹ Section 627.9404(1), F.S.

² Section 627.9407(3)(a), F.S.

³ *Id.*

days to pay the premium.⁴ After the expiration of the grace period, the insurer must provide at least 30-days written notice to the policyholder and a specified secondary addressee that coverage may lapse.⁵

Nonforfeiture Provisions

Generally, nonforfeiture protection provisions are contractual arrangements that are triggered when a policy ends, leaving the policyholder with some benefit from paying into the policy but never using it. Current law requires insurance companies to offer a nonforfeiture protection provision with long-term care policies in the form of “reduced paid-up insurance, extended term, shortened benefit period, or any other benefit approved by the [OIR] if all or part of a premium is not paid.”⁶ The policyholder has the option to purchase a nonforfeiture provision for an additional premium, but is not required to do so.

Since the passage of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), qualified long-term care insurance contract premiums may be included as a deductible medical expense on Schedule A of IRS Form 1040.⁷ A long-term care insurance contract does not qualify for preferred tax treatment if any refund of premium is not applied as a reduction of future premiums or an increase of future benefits.⁸ However, this requirement does not apply to a refund made upon the death of the insured or the complete surrender or cancellation of the contract.⁹ At the time HIPAA was passed, Florida law allowed “cash surrender values which may include return of premiums,”¹⁰ as a benefit option for a nonforfeiture protection provision. In 1997, after the passage of HIPAA, Florida law was amended to eliminate the return of premiums as an available nonforfeiture protection provision.¹¹

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 627.94072(2), F.S. Current law requires insurers of long-term care policies to offer a nonforfeiture protection provision that provides for reduced paid-up insurance, an extended term, a shortened benefit period, or other approved benefits. This bill creates an additional nonforfeiture protection provision that the insurer can offer to the insured. The bill specifies that an insurer may offer a nonforfeiture provision in a long-term care insurance policy in the form of a return of premium in the event of the insured’s death or upon complete surrender or cancellation of the policy.

Section 2 of the bill provides an effective date of July 1, 2015.

⁴ Section 627.94073(1), F.S.

⁵ Section 627.94073(2), F.S.

⁶ Section 627.94072(2), F.S.

⁷ See IRS Publication 502 (2014), Medical and Dental Expenses, “Long-Term Care: Qualified Long-Term Care Insurance Contracts,” available at <http://www.irs.gov/publications/p502/index.html> (accessed on March 26, 2015).

⁸ 26 U.S.C. s. 7702B(b)(1)(E).

⁹ 26 U.S.C. s. 7702B(b)(2)(C).

¹⁰ See s. 19, ch. 97-179, L.O.F.

¹¹ *Id.*

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

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.94072 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.

By Senator Grimsley

21-00841-15

2015520__

A bill to be entitled

An act relating to long-term care insurance; amending
s. 627.94072, F.S.; providing additional forms for the
mandatory offer of nonforfeiture benefits in long-term
care insurance policies; providing an effective date.

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

Section 1. Subsection (2) of section 627.94072, Florida
Statutes, is amended to read:

627.94072 Mandatory offers.—

(2) An insurer that offers a long-term care insurance
policy, certificate, or rider in this state must offer a
nonforfeiture protection provision providing reduced paid-up
insurance, extended term, shortened benefit period, or any other
benefits approved by the office if all or part of a premium is
not paid. A nonforfeiture protection provision may be offered in
the form of a return of premium upon the death of the insured or
upon the complete surrender or cancellation of the policy or
contract. Nonforfeiture benefits and any additional premium for
such benefits must be computed in an actuarially sound manner,
using a methodology that ~~is has been~~ filed with and approved by
the office.

Section 2. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Health
and Human Services
Health Policy
Transportation

JOINT COMMITTEES:
Joint Administrative Procedures Committee
Joint Legislative Budget Commission

SENATOR DENISE GRIMSLEY

Deputy Majority Leader
21st District

March 30, 2015

The Honorable Anitere Flores, Chair
Senate Committee on Fiscal Policy
225 Knott Building
402 S. Monroe Street
Tallahassee, FL 32399-1300

Dear Madame Chair,

Senate Bill 520, relating to Long-term Care Insurance and Senate Bill 1220, relating to Cattle Market Development Act, will be considered by your committee this week. I will be in a Transportation Committee meeting and respectfully request that my legislative assistants, Anne Bell and Marty Mielke be able to present these bills. Ms. Bell will present SB 520, and Ms. Mielke, SB1220.

Thank you for your consideration.

Sincerely,

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

Denise Grimsley
Senator, District 21

DG/mm

REPLY TO:

- ☐ 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- ☐ 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- ☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: March 19, 2015

I respectfully request that **Senate Bill #520**, relating to Long Term Care Insurance, be placed on the:

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

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

Senator Denise Grimsley
Florida Senate, District 21

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 Fiscal Policy

BILL: CS/CS/SB 600

INTRODUCER: Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Richter

SUBJECT: Insurance Guaranty Associations

DATE: April 1, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 600 clarifies the statutory accounting treatment of assessments levied by the Florida Insurance Guaranty Association (FIGA) and codifies the Office of Insurance Regulation's interpretation for such treatment. The FIGA provides a mechanism for payment of covered claims of an insolvent property and casualty insurer, and may levy regular assessments and emergency assessments to raise funds to pay the claims. An insurer may recoup such assessments from policyholders. The bill provides that such assessments are generally admissible assets for purposes of determining the financial condition of an insurer.

The bill also clarifies that the Florida Life and Health Insurance Guaranty Association must review policies, contracts, and claims of both foreign and domestic insurer-members.

The bill has no fiscal impact.

II. Present Situation:

Insurance Guaranty Associations in Florida

Chapter 631, F.S., "Insurer Insolvency and Guaranty of Payment," governs receivership for Florida insurance companies. Federal law specifies that insurance companies may not file for

bankruptcy.¹ Instead, Florida insurance companies are “rehabilitated” or “liquidated” by the Florida Department of Financial Services’ (DFS) Division of Rehabilitation and Liquidation.²

Florida has five insurance guaranty associations, which protect policyholders of liquidated insurers from financial losses and delays in claim payment and settlement.³ A guaranty association steps into the shoes of an insolvent insurer to settle claims and refund unearned premiums⁴ for policyholders. Active insurers are legally required to participate in guaranty associations.

Florida Insurance Guaranty Association (FIGA)

Part II of ch. 631, F.S., governs the FIGA, a nonprofit corporation. Property and casualty insurance companies doing business in Florida are required to be members of the FIGA. The FIGA assumes the claims of insolvent property and casualty insurers and pays their policyholders’ claims, which include claims on residential and commercial property insurance, automobile insurance, and liability insurance.

The FIGA will cover claims up to \$300,000, but special limits apply to damages to structure and contents on homeowners, condominiums, and homeowners’ association claims. For damages to structure and contents on homeowners’ claims, FIGA covers an additional \$200,000, for a total of \$500,000. For condominium and homeowners’ association claims, FIGA covers the lesser of policy limits or \$100,000 multiplied by the number of units in the association.⁵

FIGA Funding and Assessments

In order to pay claims and maintain the operations of an insolvent insurer, the FIGA has several potential funding sources including: the asset liquidation of insolvent insurance companies domiciled in Florida; the asset liquidation of insolvent insurers domiciled in other states that have claims in Florida; and levy of an assessment on Florida member property and casualty insurance companies.⁶

The FIGA may levy two types of assessments against the member insurance companies to pay the claims of an insolvent insurer that has insufficient assets. Under s. 631.57(3)(a), F.S., the

¹ The Bankruptcy Code expressly forbids a domestic insurance company from filing for or becoming the subject of a federal bankruptcy proceeding. 11 U.S.C. 109(b)(2). The exclusion of insurers from federal bankruptcy practices is consistent with federal policy, generally allowing states to regulate the business of insurance. See 15 U.S.C. 1011-1012 (McCarran-Ferguson Act).

² Insolvent insurers are generally liquidated, whereas insurers with unsound financial conditions or other characteristics are rehabilitated. The goal of liquidation is to dissolve the insurer. See s. 631.051, F.S., for the grounds for rehabilitation and s. 631.061, F.S., for grounds for liquidation.

³ The Florida Life and Health Insurance Guaranty Association and the Florida Insurance Guaranty Association are discussed in this document. The Florida Health Maintenance Organization Consumer Assistance Plan offers assistance to members of insolvent health maintenance organizations. The Florida Workers’ Compensation Insurance Guaranty Association protects policyholders of insolvent workers’ compensation insurers. The Florida Self-Insurers Guaranty Association protects policyholders of insolvent individual self-insured employers for workers’ compensation claims.

⁴ An “unearned premium” is the portion of a paid-in-advance premium that is owed back to the policyholder because he or she did not receive the benefit of the full term of the policy for which he or she paid.

⁵ Section 631.57(2)(a), F.S.

⁶ See FIGA, *Frequently Asked Questions*, available at <http://figafacts.com/faq> (last viewed on 3/28/2015).

FIGA is authorized to levy a regular assessment for up to 2 percent of an insurer's net written premium. The second assessment is an additional 2 percent emergency assessment authorized under s. 631.57(3)(e), F.S., levied only to pay the claims covered by an insurer rendered insolvent by the effects of a hurricane. The FIGA has not levied an emergency assessment since 2006, and last levied a regular assessment in November 2012.⁷

Insurers pay the assessments upfront and may recoup the assessment from policyholders upon policy issuance or renewal. The procedure used by the FIGA to levy both regular and emergency assessments on member insurance companies is provided in s. 631.57(3), F.S. The procedures are generally the same for regular and emergency assessments:

1. The FIGA determines an assessment is necessary to pay claims or administration costs, or to pay costs related to bonds issued by the FIGA.
2. The FIGA certifies the need for an assessment to the Office of Insurance Regulation (OIR).
3. The OIR reviews the certification, and if sufficient, issues an order to all the FIGA-member insurance companies to pay their FIGA assessment.
4. Insurance companies must pay regular assessments within 30 days of the levy. Insurers may pay emergency assessments either in one payment or spread over 12 months, at the FIGA's discretion.

For both assessments, an insurance company may recoup the assessment from its policyholders, beginning at the policy issuance or renewal and after the insurer pays the assessment in full.⁸ If an insurer recuperates more than it paid in its FIGA assessment, the excess must be remitted to: the FIGA to reduce future assessments, if the excess amount does not exceed 15 percent of the total assessment; or its policyholders, if the excess amount exceeds 15 percent of the total FIGA assessment.

Accounting for Assessments

Most insurers authorized to do business in the U.S. are required by state regulators to prepare financial statements in accordance with statutory accounting principles (SAP), which differs from generally acceptable accounting principles (GAAP). GAAP attempts to match revenues to expenses, and is therefore useful to investors and other users of financial reporting (such as banks, credit rating agencies, and the U.S. Securities & Exchange Commission). SAP evaluates liquidity and the ability to pay claims in the future in accordance with the concepts of consistency and conservatism. The OIR requires insurers to file annual SAP statements and independently audited financial reports.⁹

Under both GAAP and SAP, an insurer recognizes a liability when a FIGA assessment is imposed (which reduces the insurer's surplus and net worth). However, the accounting methods calculate the timing of the asset accrual (based on payment of the recoupment) differently:

- GAAP does not qualify the assessment recoverable from future premium writings as an asset. This reduces an insurance company's retained earnings and equity in the period of an

⁷ FIGA, *Assessments*, available at <http://figafacts.com/assessments> (last viewed 3/28/2015).

⁸ Section 631.57(3)(c) and (f)-(i), F.S. See also OIR, *Frequently Asked Questions for FIGA Recoupment Filings*, (Jan. 2013) available at <http://www.figafacts.com/media/files/FAQs%20OIR-FIGA%20Assessment.pdf> (last viewed 3/28/2015).

⁹ OIR, *2015 Agency Legislative Bill Analysis SB 600* (Feb. 5, 2015). See also s. 624.424, F.S.

assessment levy. However, the equity reduction is eliminated the following year as the assessments are recouped.

- SAP recognizes as an asset the assessment amount likely to be recovered from future premium surcharges. This offsets or eliminates the negative effect on statutory surplus, subject to certain conditions.¹⁰ However, SAP does not permit an asset to be recognized if the assessment is to be recovered from future rate structures, and limits asset reduction for accrued assessment liabilities to the extent that the amount to be recovered is from in-force premiums only.

For financial reporting associated with a FIGA assessment, the OIR requires that assessments levied before policy surcharges are collected result in a receivable, which must be recognized as an admissible asset¹¹ under SAP to the extent the receivable is likely to be realized.¹²

Florida Life and Health Insurance Guaranty Association (FLAHIGA)

Part III of ch. 631, F.S., governs the powers and duties of the FLAHIGA. All insurance companies¹³ authorized to write life and health insurance or annuities in Florida are required to be FLAHIGA members. In the event a member insurer is insolvent and ordered to be liquidated by a court, the FLAHIGA protects Florida residents who have life and health insurance policies and certain annuities with the insolvent insurer.

Generally, direct individual or direct group life and health insurance policies, as well as individual and allocated annuity contracts¹⁴ issued by the FLAHIGA's member insurers are covered.¹⁵ A policy must meet coverage requirements, and the FLAHIGA's payments are capped for any one person as follows:

- Life Insurance Death Benefit: \$300,000 per insured life.
- Life Insurance Cash Surrender: \$100,000 per insured life.
- Health Insurance Claims: \$300,000 per insured life.
- Annuity Cash Surrender: \$250,000 for deferred annuity contracts per contract owner.
- Annuity in Benefit: \$300,000 per contract owner.¹⁶

When a FLAHIGA-member insurer is found insolvent and ordered liquidated, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. Upon liquidation, the FLAHIGA automatically becomes liable for the policy

¹⁰ National Association of Insurance Commissioners, *Statements on Statutory Accounting Principles No. 35R, Guaranty Fund and Other Assessments (SSAP 35R)*; see also Thomas Howell Ferguson P.A., *Accounting for Guaranty Fund Assessments Memorandum* (Dec. 3, 2013).

¹¹ As defined in the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No. 4.

¹² OIR, *Supplemental Memorandum to Information Memorandum OIR-06-023M* (Dec. 1, 2006).

<http://www.flair.com/siteDocuments/SupplementalMemo.pdf> (last viewed 3/28/2015). See also s. 625.012, F.S., for the "assets" defined for any determination of the financial condition of an insurer.

¹³ The insurance policies or entities listed in s. 631.713(3), F.S., are not covered under the FLAHIGA.

¹⁴ Allocated annuity contracts are directly issued to and owned by individuals or annuities that directly guarantee benefits to individuals by the insurer.

¹⁵ The FLAHIGA covers only policyholders and certificate holders that were Florida residents on the date that a member insurer is declared insolvent and liquidated, with some exceptions. s. 631.713(2)(b), F.S.

¹⁶ Section 631.717(9), F.S., and FLAHIGA, *Frequently Asked Questions*, available at <http://www.flahiga.org/faq.cfm> (last viewed 3/28/2015).

obligations the liquidated insurer owed to its Florida policyholders. The FLAHIGA services the policies, collects premiums and pays claims under the policies. The FLAHIGA's rights under the policies are those that applied to the insurer prior to liquidation. The FLAHIGA may cancel the policy if the insurer could have done so, but normally the FLAHIGA continues the policies until the association can transfer (or substitute) the policies to another insurer with approval by the OIR.

In 2011, legislation specified that the FLAHIGA's immunity from bad faith lawsuits did not affect the FLAHIGA's "obligation to pay valid insurance policy or contract claims if warranted after its independent de novo review of the policies, contracts, and claims presented to it, whether domestic or foreign, after a Florida domestic rehabilitation or a liquidation."¹⁷ The current law only specifies that the FLAHIGA's obligation applies after a domestic (in-state) rehabilitation or liquidation, but is silent as to the FLAHIGA's obligations after a *foreign* rehabilitation or liquidation.

III. Effect of Proposed Changes:

Florida Insurance Guaranty Association – Accounting for Assessments

The bill amends s. 625.012, F.S., to include in the definition of "asset" for the purpose of determining an insurer's financial condition, FIGA assessments that are levied and paid before policy surcharges are collected and result in a receivable from policyholders. The amount of the assessment is recognized as an admissible asset under SAP to the extent the receivable is likely to be realized. This codifies the current practice of the OIR, and eliminates the negative effect on statutory surplus of guaranty fund assessments. The bill further provides that an asset must be established and recorded separately from the liability and the insurer must reduce the amount recorded as an asset if it cannot fully recoup the assessment amount because of a reduction in writings or withdrawal from the market.

For emergency assessments paid after policy surcharges are collected pursuant to the monthly installment method, the recognition of assets is based on the actual premium written offset by the obligation to the FIGA.

The bill does not appear to address assessments that are recouped through future premium rate structures, and therefore those assessments are still be subject to SSAP 35R¹⁸ and likely are non-admitted assets.¹⁹

Florida Life and Health Insurance Guaranty Association

The bill transfers the 2011 exception from immunity from the FLAHIGA's powers and duties statute, s. 631.717, F.S., to s. 631.737, F.S., which pertains to FLAHIGA's duty to review claims involving covered policies. The bill clarifies that this duty is not limited solely to policies,

¹⁷ Chapter 2011-226, L.O.F.

¹⁸ National Association of Insurance Commissioners, *Statements on Statutory Accounting Principles, No. 35R, Guaranty Fund and Other Assessments (SSAP 35R)*.

¹⁹ OIR, *2015 Agency Legislative Bill Analysis SB 600* (Feb. 5, 2015).

contracts, and claims following domestic rehabilitations and liquidations, but also includes foreign rehabilitations and liquidations.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will clarify statutory accounting treatment for the recognition of FIGA assessments as admissible assets by codifying the OIR's interpretation.

The bill also clarifies FLAHIGA's obligations to pay claims after a *foreign* rehabilitation or liquidation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 625.012, 631.717, and 631.737.

IX. Additional Information:

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

CS/CS by Commerce and Tourism on March 16, 2015:

The CS provides technical changes, removing an unnecessary reenactment clause.

CS by Banking and Insurance on February 17, 2015:

The CS provides technical, clarifying changes.

- B. **Amendments:**

None.

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

By the Committees on Commerce and Tourism; and Banking and Insurance; and Senator Richter

577-02330-15

2015600c2

A bill to be entitled

An act relating to insurance guaranty associations; amending s. 625.012, F.S.; revising the definition of the term "asset" to include Florida Insurance Guaranty Association assessments, under certain conditions, for purposes of determining the financial condition of an insurer; amending ss. 631.717 and 631.737, F.S.; transferring a provision relating to the obligation of the Florida Life and Health Insurance Guaranty Association to pay valid claims under certain circumstances; providing an effective date.

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

Section 1. Subsections (15) and (16) of section 625.012, Florida Statutes, are redesignated as subsections (16) and (17), respectively, and a new subsection (15) is added to that section, to read:

625.012 "Assets" defined.—In any determination of the financial condition of an insurer, there shall be allowed as "assets" only such assets as are owned by the insurer and which consist of:

(15) (a) Assessments levied under s. 631.57(3) (a) and (e) which are paid before policy surcharges are collected and result in a receivable for policy surcharges to be collected in the future. This amount, to the extent it is likely that it will be realized, meets the definition of an admissible asset as specified in the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No.

577-02330-15

2015600c2

4. The asset shall be established and recorded separately from the liability regardless of whether it is based on a retrospective or prospective premium-based assessment. If an insurer is unable to fully recoup the amount of the assessment because of a reduction in writings or withdrawal from the market, the amount recorded as an asset shall be reduced to the amount reasonably expected to be recouped.

(b) Assessments levied as monthly installments under s. 631.57(3) (e) 1.c. which are paid after policy surcharges are collected so that the recognition of assets is based on actual premium written offset by the obligation to the Florida Insurance Guaranty Association.

Section 2. Subsection (11) of section 631.717, Florida Statutes, is amended to read:

631.717 Powers and duties of the association.—

(11) The association is ~~shall not be~~ liable for any civil action under s. 624.155 arising from any acts alleged to have been committed by a member insurer before ~~prior to~~ its liquidation. ~~This subsection does not affect the association's obligation to pay valid insurance policy or contract claims if warranted after its independent de novo review of the policies, contracts, and claims presented to it, whether domestic or foreign, after a Florida domestic rehabilitation or a liquidation.~~

Section 3. Section 631.737, Florida Statutes, is amended to read:

631.737 Rescission and review generally.—The association shall review claims and matters regarding covered policies based upon the record available to it on and after the date of

577-02330-15

2015600c2

59 liquidation. Notwithstanding any other provision of this part,
60 in order to allow for orderly claims administration by the
61 association, entry of a liquidation order by a court of
62 competent jurisdiction ~~tolls shall be deemed to toll~~ for 1 year
63 any rescission or noncontestable period allowed by the contract,
64 the policy, or by law. The association's obligation is to pay
65 any valid insurance policy or contract claims, if warranted,
66 after its independent de novo review of the policies, contracts,
67 and claims presented to it, whether domestic or foreign,
68 following a rehabilitation or a liquidation.
69 Section 4. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Jennifer Hrdlicka, Staff Director
Tamra Lyon, Committee Administrative Assistant

Subject: Committee Agenda Request

Date: March 17, 2015

Dear Chair Flores,

I would like to respectfully request that **Senate Bill #600**, relating to Insurance Guaranty Associations, be placed on the Fiscal Policy Committee Agenda at your earliest possible convenience.

Any questions regarding this legislation, please do not hesitate to contact me or my staff.

A handwritten signature in black ink, appearing to read "Garrett Richter", is written over a horizontal line.

Senator Garrett Richter
Florida Senate, District 23

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/02/2015

Meeting Date

SB 600

Bill Number (if applicable)

Topic Insurance Guaranty Associations

Amendment Barcode (if applicable)

Name Joseph R. Salzverg

Job Title Legislative Affairs Consultant

Address 325 W. College Ave., 2nd Floor

Phone _____

Street

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Tower Hill Insurance Group

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
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 Fiscal Policy

BILL: SB 956

INTRODUCER: Senator Simpson

SUBJECT: Freight Logistics Zones

DATE: April 1, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. White	Yeatman	CA	Favorable
2. Sneed	Miller	ATD	Recommend: Favorable
3. Pace	Hrdlicka	FP	Favorable

I. Summary:

SB 956 authorizes a county or counties to designate a geographic area or areas within its jurisdictions as a freight logistic zone. The bill defines a “freight logistics zone” as a grouping of activities and infrastructure associated with freight transportation and related services within a defined area around an intermodal logistics center and requires that the designation be accompanied by a strategic plan.

Projects within a freight logistics zone may be eligible for priority in state funding and incentive programs. Eligibility for priority status will be based on an evaluation of the project.

The bill has an indeterminate fiscal impact on state government. The bill does not have mandatory funding requirements for freight logistics zone projects. However, projects within freight logistics zones may be eligible for priority in state incentive programs relating to zones available through the Department of Economic Opportunity (DEO) or the projects may be given priority consideration in the Florida Department of Transportation’s development of the state’s Five-Year Tentative Work Program. The funding of these projects is ultimately subject to meeting program eligibility requirements and the availability of funds provided through legislative appropriations in the annual General Appropriations Act. The bill also has an indeterminate fiscal impact on local governments for the costs associated with the optional designation of a freight logistics zone.

II. Present Situation:

The Florida Department of Transportation

Currently, freight logistics zones are not defined or designated. However, the Florida Department of Transportation (FDOT) is pursuing a goal to develop a coordinated multimodal transportation system for freight movement in Florida. The Office of Freight, Logistics, and Passenger

Operations within the FDOT emphasizes freight mobility through the development and implementation of a freight planning process that maximizes the use of the existing government- and privately-owned transportation resources.¹

Florida Freight Mobility and Trade Plan

In 2012, the Legislature emphasized the importance of freight mobility to the state's economic growth by directing the FDOT to develop a Freight Mobility and Trade Plan by July 1, 2013.² The plan will assist in making freight mobility investments that contribute to the economic growth of the state and enhance the integration of the transportation system between transportation modes throughout the state.³ The plan must propose transportation-related policies and investments that increase:

- The flow of trade through the state's seaports and airports and recapture cargo shipped through seaports and airports in other states;
- The development of intermodal logistic centers in the state;
- The development of manufacturing industries in the state; and
- The implementation of compressed natural gas, liquefied natural gas, and propane energy policies that reduce transportation costs for businesses and residents in the state.⁴

The FDOT must also emphasize freight issues and needs in all appropriate transportation plans.⁵

Intermodal Logistics Center Infrastructure Support Program

In 2012, the Legislature created the Intermodal Logistics Center Infrastructure Support Program⁶ within the FDOT to provide funds for roads, rail facilities, or other means for the shipment of goods through a seaport.⁷ The FDOT must provide up to \$5 million annually for the program and must include projects the program proposes to fund in its tentative work program, which is developed to allocate state and federal funding for transportation related projects.⁸ In selecting a project for funding, the FDOT must consider a number of statutory criteria and consult with the Department of Economic Opportunity (DEO).⁹ The FDOT must fund up to 50 percent of project costs for selected projects.¹⁰

¹ FDOT, Office of Freight Logistics and Passenger Operations, available at <http://www.dot.state.fl.us/multimodal/> (last visited March 29, 2015).

² Chapter 2012-174, s. 23, L.O.F.; s. 334.044(33), F.S.

³ Section 334.044(33), F.S.; See also Florida Logistics website, available at <http://www.freightmovesflorida.com/> (last visited March 29, 2015).

⁴ *Id.* at (a).

⁵ *Id.* at (b).

⁶ Section 311.101(2), F.S., defines "intermodal logistics center" as a "facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance of shipping through one or more [of Florida's 17 seaports]."

⁷ Chapter 2012-174, s. 12, L.O.F.; s. 311.101(7), F.S.

⁸ See s. 339.135(4), F.S.

⁹ Section 311.101(3) and (4), F.S.

¹⁰ *Id.* at (6).

Strategic Intermodal System

In 2012, the Legislature required the FDOT Secretary to designate a planned facility as part of the Strategic Intermodal System (SIS) upon the request of the facility.¹¹ A requesting facility must meet the criteria established by the FDOT; meet the definition of “intermodal logistics center;”¹² and must have been designated in a local comprehensive plan or local government development order as an intermodal logistics center or equivalent planning term.¹³ Designation as part of the SIS makes the facility eligible to receive funding for transportation capacity improvements.¹⁴

Moving Ahead for Progress in the 21st Century Act (MAP-21)

At the federal level, in 2012, the Moving Ahead for Progress in the 21st Century Act recommended that states develop plans for the immediate and long-range planning activities and investments of the state with respect to freight.¹⁵ The act also provides up to 95 percent federal matching funds for certain projects that are identified in state freight plans and that improve the movement of freight.¹⁶

Economic Development Incentive Programs, Parts I, III, and V of Ch. 288, F.S.

Part I: General Provisions

Current law provides a number of economic development incentives in various forms, including tax refunds, tax credits, tax exemptions, cash grants, and infrastructure funding. For example, incentives can include the qualified target industry tax refund,¹⁷ quick action closing fund,¹⁸ brownfield redevelopment bonus refund,¹⁹ high impact performance incentive grant,²⁰ and quick response training.²¹ These incentives are administered by the DEO and are generally designed to promote job creation within certain target industries in Florida; accordingly, awards for these incentives are based on job creation, wage, and economic benefit (return on investment) projections for each entity that applies for the incentives. Additionally, recipient businesses are generally contractually required to meet specific milestones before incentive payments begin.

Part III: Foreign Trade Zones

Part III of ch. 288, F.S., authorizes any corporation or government agency to apply to the federal government to establish a foreign trade zone in or adjacent to a port of entry of the United States

¹¹ Chapter 2012-174, s. 58, L.O.F.; s. 339.63(5), F.S.

¹² *Supra* note 6.

¹³ Section 339.63(5), F.S.

¹⁴ *See* s. 339.61(1), F.S.

¹⁵ Pub. L. No. 112-141, s. 1118 (July 6, 2012).

¹⁶ *Id.* at s. 1116.

¹⁷ Section 288.106, F.S.

¹⁸ Section 288.1088, F.S.

¹⁹ Section 288.107, F.S.

²⁰ Section 288.108, F.S.

²¹ Section 288.047, F.S. For a general description of these programs and their award and performance history see DEO and Enterprise Florida, Inc., *2014 Annual Incentives Report* (Dec. 2014), available at <http://sitefinity.floridajobs.org/docs/default-source/sbd-sports/2014-annual-incentives-report.pdf?status=Temp&sfvrsn=0.028032216409722532> (last visited March 30, 2015).

pursuant to the Foreign Trade Zones Act of 1934. A foreign trade zone is a designated location where U.S.-based companies can take advantage of special procedures that delay, avoid, or reduce duties, quotas, or certain ad valorem taxes on merchandise held in the zone.²² These advantages are designed to lower the costs of U.S.-based business operations engaged in international trade.²³

There are currently 22 foreign trade zones in Florida, each of which is managed by a local government entity.²⁴ Beyond the authority to establish and operate a zone in accordance with federal law, part III of ch. 288, F.S., does not contain any state-level economic development incentives specifically for projects located in a foreign trade zone.

Part V: Export Finance

Part V of ch. 288, F.S., creates the Florida Export Finance Corporation (FEFC), a not-for-profit corporation, to help small and medium-sized Florida businesses expand international trade and job opportunities for Florida's workforce.²⁵ While the FEFC provides information and technical and consulting assistance to certain small and medium-sized Florida exporters, its primary service is through providing loan guarantees and direct loan originations for exported goods.²⁶ The FEFC will guarantee a loan to an exporter only after a commercial lender has denied an exporter's loan request.²⁷ The maximum amount of guarantee the FEFC will provide is \$500,000 and may not exceed 90 percent of the transaction contract.²⁸

The FEFC is also a member of the city/state program of the Export-Import Bank of the United States and offers Florida exporters access to U.S. government export assistance programs offered by the Export-Import Bank and the Small Business Administration.²⁹

III. Effect of Proposed Changes:

Section 1 creates s. 311.103, F.S., providing for the designation of freight logistics zones in Florida. A "freight logistics zone" is defined as a grouping of activities and infrastructure associated with freight transportation and related services within a defined area around an intermodal logistics center.³⁰ A county, or two or more contiguous counties, is authorized to designate one or more geographic areas within its jurisdiction as a freight logistic zone. The bill does not limit the size, number, or scope of the geographic areas that may be designated as a zone.

²² U.S. International Trade Administration, U.S. Foreign Trade Zones, *What is a Foreign-Trade Zone?*, available at <http://enforcement.trade.gov/ftzpage/info/zone.html> (last visited March 30, 2015).

²³ Seminole County, Economic Development, *Foreign Trade Zones*, available at <http://www.seminolecountyfl.gov/ecodev/ftz.aspx> (last visited March 30, 2015).

²⁴ U.S. International Trade Administration, U.S. Foreign Trade Zones, available at <http://ita-web.ita.doc.gov/FTZ/OFISLogin.nsf> (last visited March 30, 2015).

²⁵ Section 288.773, F.S.

²⁶ *Id.*

²⁷ Section 288.774(4), F.S.

²⁸ Section 288.774(3)(a) and (4), F.S.

²⁹ *Supra* note 21 at 87.

³⁰ *Supra* note 6.

The designation must be accompanied by a strategic plan adopted by the county or counties. The strategic plan must include:

- A map depicting the geographic area or areas to be included within the zone;
- Identification of existing or planned freight facilities or logistics clusters within the zone;
- Identification of existing transportation infrastructure and workforce availability within or near the zone;
- Identification of public workforce training providers available for a business seeking to locate or expand within the zone;
- Identification of local, state, or federal freight movement plans within or near the zone;
- Identification of local government incentives to encourage new or expanding development or redevelopment within the zone; and
- Documentation that the strategic plan is consistent with local government comprehensive plans and, if necessary, long-range transportation plans of a metropolitan planning organization.

A project within a zone that is consistent with the FDOT Freight and Mobility Trade Plan may be eligible for priority in state funding and incentive programs relating to zones, including applicable programs identified in parts I, III, and V of ch. 288, F.S. However, current incentives under part I of ch. 288, F.S., do not provide a system of priority treatment to determine incentive awards. As explained in the Present Situation above, incentive awards are determined based on job creation, wage, and economic benefit calculations for each project. Additionally, neither foreign trade zones under part III of ch. 288, F.S., nor the FEFC under part V of ch. 288, F.S., provide state-level development incentives or funding beyond the loan guarantee program for exporters by the FEFC. The priority status of a project in a zone as provided in the bill, will likely be inapplicable for any federal government funding or incentives provided through foreign trade zones or the FEFC.

To determine funding or incentive program eligibility, a project within a zone will be evaluated based on the following criteria:

- The presence of an existing or planned intermodal logistics center within the zone.
- Whether the project serves a strategic state interest.
- Whether the project facilitates the cost-effective and efficient movement of goods.
- The extent to which the project contributes to economic activity.
- The extent to which the project efficiently interacts with and supports the transportation network.
- The amount of investment or commitments made by the owner or developer of the existing or proposed facility.
- The extent to which the county or counties have commitments with private sector businesses planning to locate operations with the zone.
- Demonstrated local financial support and commitment to the project.

It is unclear how the bill will be administered. For example, the bill does not indicate which state agency or department will evaluate projects to determine whether the project will receive priority for funding or incentives. Presumably, once a project in a zone meets eligibility requirements under any of the incentive or funding programs in parts I, III, and V of ch. 288, F.S., and also meets the criteria for evaluating projects described above, priority of that project over other

projects not within a zone is authorized. However, once a pool of eligible projects within zones is identified, no process for prioritizing projects within the pool is provided in the bill.

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under SB 956 a business located within a zone may be eligible for priority in state funding and incentives programs. A business may be required to meet the evaluation criteria established under the bill in addition to the particular funding or incentive program's requirements under part I of ch. 288, F.S.

Additionally, the FDOT indicated that projects within a zone may be given priority consideration for funding during the development of the Five-Year Tentative Work Program.³¹

The bill may also promote growth of the freight industry and related businesses.

C. Government Sector Impact:

Counties choosing to designate a zone must develop a strategic plan adopted by the county which is consistent with the local government's comprehensive plan and consistent with the metropolitan planning organization's long-range transportation plan. Local government financial support and commitment are to be identified in the required strategic plans. The fiscal impact of developing the local strategic plan is indeterminate.

³¹ FDOT, *Agency Legislative Bill Analysis for HB 257* (Jan. 14, 2015) (on file with the Senate Fiscal Policy Committee).

The bill may further the development of a coordinated multi-modal transportation system for freight movement throughout Florida, thereby facilitating statewide economic development.

The Florida Department of Highway Safety and Motor Vehicles and the Florida Department of Economic Opportunity determined that there would be no impact to the agency.³²

The FDOT notes that the bill could result in adjustments to projects currently planned in the Five-Year Work Program to the extent that local partners reprioritize projects and seek to advance freight and logistics projects not currently funded in the Five-Year Work Program.³³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 311.103 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.

³² DHSMV, *Agency Legislative Bill Analysis for HB 257* (Feb. 4, 2015), and DEO *memo regarding HB 257* (Mar. 20, 2015) (on file with the Senate Fiscal Policy Committee).

³³ FDOT, *Agency Legislative Bill Analysis for HB 257* (Jan. 14, 2015) (on file with the Senate Fiscal Policy Committee).

By Senator Simpson

18-00890-15

2015956__

A bill to be entitled

An act relating to freight logistics zones; creating s. 311.103, F.S.; defining the term "freight logistics zone"; authorizing a county or two or more contiguous counties to designate a geographic area or areas within its jurisdiction as a freight logistics zone; requiring the adoption of a strategic plan which must include certain information; providing that certain projects within freight logistics zones may be eligible for priority in state funding and certain incentive programs; providing evaluation criteria for freight logistics zones; providing an effective date.

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

Section 1. Section 311.103, Florida Statutes, is created to read:

311.103 Designation of state freight logistics zones.—

(1) As used in this section, the term "freight logistics zone" means a grouping of activities and infrastructure associated with freight transportation and related services within a defined area around an intermodal logistics center as defined in s. 311.101(2).

(2) A county, or two or more contiguous counties, may designate a geographic area or areas within its jurisdiction as a freight logistics zone. The designation must be accompanied by a strategic plan adopted by the county or counties. At a minimum, the strategic plan must include, but is not limited to:

(a) A map depicting the geographic area or areas to be

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included within the designation.

(b) Identification of the existing or planned freight facilities or logistics clusters located within the designated zone.

(c) Identification of existing transportation infrastructure, such as roads, rail, airports, and seaports, within or in close proximity to the proposed freight logistics zone.

(d) Identification of existing workforce availability within or in close proximity to the proposed zone.

(e) Identification of any existing or planned local, state, or federal workforce training capabilities available for a business seeking to locate or expand within the proposed zone.

(f) Identification of any local, state, or federal plans, including transportation, seaport, or airport plans, concerning the movement of freight within or in close proximity to the proposed zone.

(g) Identification of financial or other local government incentives to encourage new development, expansion of existing development, or redevelopment within the proposed zone.

(h) Documentation that the plan is consistent with applicable local government comprehensive plans and adopted long-range transportation plans of a metropolitan planning organization, where applicable.

(3) Projects within freight logistics zones designated pursuant to this section, which are consistent with the Freight Mobility and Trade Plan developed in accordance with s. 334.044(33), may be eligible for priority in state funding and incentive programs relating to freight logistics zones,

Page 2 of 3

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including applicable programs identified in parts I, III, and V
of chapter 288.

(4) When evaluating projects within a designated freight
logistics zone for purposes of determining funding or incentive
program eligibility under this section, consideration must be
given to:

(a) The presence of an existing or planned intermodal
logistics center within the freight logistics zone.

(b) Whether the project serves a strategic state interest.

(c) Whether the project facilitates the cost-effective and
efficient movement of goods.

(d) The extent to which the project contributes to economic
activity, including job creation, increased wages, and revenues.

(e) The extent to which the project efficiently interacts
with and supports the existing or planned transportation
network.

(f) The amount of investment or commitments made by the
owner or developer of the existing or proposed facility.

(g) The extent to which the county or counties have
commitments with private sector businesses planning to locate
operations within the freight logistics zone.

(h) Demonstrated local financial support and commitment to
the project, including in-kind contributions.

Section 2. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON

18th District

March 19, 2015

Honorable Anitere Flores
Committee on Fiscal Policy
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairwoman Flores,

Please place SB 956 relating to freight logistics zones, on the next Committee on Fiscal Policy agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

CC: Jennifer Hrdlicka, Staff Director

REPLY TO:

- ☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- ☐ Post Office Box 938, Brooksville, Florida 34605
- ☐ Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2

Meeting Date

956

Bill Number (if applicable)

Topic Freight Zones

Amendment Barcode (if applicable)

Name MICHAEL RUBIN

Job Title VP GAIT AFFAIRS

Address 500 E JEFFERSON ST.

Phone 850 222 2078

Street

TALL FL

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA PORTS COUNCIL

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)

4/2/2015

Meeting Date

956

Bill Number (if applicable)

Topic Freight Logistics Zones

Amendment Barcode (if applicable)

Name Katie Kelly

Job Title Director of Infrastructure and Governance

Address 136 Bronough St

Phone 850-933-2822

Street

Tallahassee

FL

32301

Email kkelly@flchamber.com

City

State

Zip

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
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 Fiscal Policy

BILL: CS/SB 960

INTRODUCER: Fiscal Policy Committee and Senator Lee

SUBJECT: Florida Bright Futures Scholarship Program

DATE: April 3, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	HE	Favorable
2.	Sikes	Elwell	AED	Favorable
3.	Pace	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 960 allows a student who is eligible for a Florida Bright Futures Scholarship award, but unable to accept the award immediately following high school graduation due to a full-time religious or service obligation lasting at least 18 months, to defer the 2-year initial award period and the 5-year renewal period until the student completes the religious or service obligation.

The bill also modifies student community service requirements for Florida Bright Futures Scholarship Program awards by clarifying that community service work means volunteer service work, expanding the permissible activities that students can participate in to meet the volunteer service work requirement to include civic or professional areas, and placing parameters on such activities.

The bill also repeals obsolete references to past SAT and ACT score requirements.

The bill has a minimal fiscal impact. The number of students who could potentially benefit from the award deferment authorized in the bill is not known.

II. Present Situation:

The Florida Bright Futures Scholarship Program (program) is a lottery-funded scholarship program to reward a Florida high school graduate who merits recognition for high academic achievement and who enrolls in a degree program, certificate program, or applied technology

program at an eligible public or private postsecondary institution in Florida after graduating from high school.¹ The Department of Education (DOE) administers the program in accordance with rules and procedures adopted by the State Board of Education.²

The program consists of three types of awards:³

- Florida Academic Scholarship (FAS);⁴
- Florida Medallion Scholarship (FMS);⁵ and
- Florida Gold Seal Vocational Scholarship (FGSV).⁶

Currently, a student who graduates from high school having met the requirements of a Florida Bright Futures Scholarship award is eligible to accept:

- An initial award for a period of 2 years;⁷ and
- A renewal award for 5 years after graduating from high school.⁸

A student who enlists in the United States Armed Forces immediately after high school graduation can defer the 2-year eligibility period for initial award and 5-year renewal period of the award until the student separates from active duty.⁹ Also, for a student who receives the scholarship award but discontinues his or her education to enlist in the United States Armed Forces, the remainder of his or her 5-year renewal period commences upon the date of separation from active duty.¹⁰

To be eligible to receive a program award, students must meet the general eligibility criteria¹¹ and specific academic and community service work requirements.¹² The FAS and FMS require certain SAT or ACT scores, depending on the academic year. For the 2013-2014 academic year and on, a student must earn a SAT score of 1290 or Act score of 29 for the FAS, and a SAT score of 1170 or ACT score of 26 for the FMS. The community service work must be approved by the district school board, the administrators of a nonpublic school, or the DOE for home education program students.¹³

¹ Sections 1009.53(1), F.S. and 1009.531(2)(a-c), F.S., specify that a student graduating from high school prior to the 2010-2011 academic year is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 7 years following high school graduation. Each student graduating in the 2010-2011 and 2011-2012 academic school years is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 5 years following high school graduation. In the 2012-2013 academic school year, and thereafter, a student graduating from high school is able to accept an initial award for 2 years following high school and to accept a renewal award for 5 years following high school graduation.

² Section 1009.53(3), F.S.

³ Section 1009.53(2), F.S.

⁴ Section 1009.534, F.S.

⁵ Section 1009.535, F.S.

⁶ Section 1009.536, F.S.

⁷ Section 1009.531(2)(c), F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 1009.531, F.S.

¹² Sections 1009.534(1), 1009.535(1), and 1009.536(1)(e), F.S.

¹³ *Id.*

To fulfill the community service work requirements, students graduating in the 2011-2012 academic year and thereafter must complete community service work, identify a social problem of interest, develop a plan for personal involvement in addressing the problem, and reflect on such experience through papers or presentations.¹⁴ The number of community service work hours required differ among the three programs. For FAS, students must perform a minimum of 100 hours of community service work, FMS students must perform a minimum of 75 hours of community service work¹⁵, and FGSV students must perform a minimum of 30 hours of community service work.¹⁶

III. Effect of Proposed Changes:

Religious or Service Obligation Deferment

The bill modifies the student eligibility requirements for initial award of the Florida Bright Futures Scholarship (Section 1). The bill allows a student who is eligible for a Florida Bright Futures Scholarship award, but unable to accept the award immediately following high school graduation due to a full-time religious or service obligation lasting at least 18 months, to defer the 2-year initial award period and the 5-year renewal period until the student completes the religious or service obligation.

For the student to be eligible for the deferment, the religious or service obligation sponsoring organization must meet the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code or be a federal government service organization, such as the Peace Corps and AmeriCorps programs. The sponsoring organization must document, in writing, and verify the student's religious obligation or service work on a standardized form prescribed by the Department of Education.

In effect, students that would otherwise forfeit a scholarship due to participation in a religious or service obligation may retain eligibility, similar to the flexibility currently granted to students who enlist in the Armed Forces.

Volunteer Service Requirement

The bill modifies student community service requirements affecting student eligibility for the Florida Academic Scholarship (Section 2), Florida Medallion Scholarship (Section 3), and Florida Gold Seal Vocational Scholarship (Section 4) awards and clarifies that "community" service work means "volunteer" service work. Specifically, the bill:

- Expands volunteer service work areas to include a civic issue or a professional area of interest;
- Requires students to develop a plan for personal involvement in addressing the social or civic issue or learning about the professional area, as well as to reflecting on such experience through papers or presentations;
- Provides accountability requirements for a student's service work; and

¹⁴ Sections 1009.534(1), F.S.

¹⁵ Section 1009.535(1), F.S.

¹⁶ Section 1009.536(1)(e), F.S.

- Prohibits a student from receiving compensation or academic credit for the volunteer service work, except for credit earned through service-learning courses.¹⁷

The bill specifies that volunteer service work may include, but is not limited to, the following activities:

- Internship with a business or government entity;
- Work for a nonprofit community service organization; or
- Activity on behalf of a candidate for public office.

The volunteer service hours must be documented in writing and signed by the student, the student's parent or guardian, and a representative of the organization where the student volunteered.

General Eligibility Requirements

The bill repeals obsolete requirements for certain SAT and ACT scores for the FAS and FMS for past academic years (Section 1).

The bill takes effect on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill more students may remain eligible for the Florida Bright Futures Scholarship award due to the religious or service obligation deferment option. In the

¹⁷ Service-learning courses are adopted pursuant to s. 1003.497, F.S.

2013-2014 fiscal year, the average Florida Bright Futures Scholarship award was \$1,973.¹⁸

The bill may encourage more students to participate in religious or service activities after high school graduation because they can remain eligible for a Bright Futures Scholarship award.

C. Government Sector Impact:

This bill has a minimal fiscal impact. Approximately 80 percent of students initially eligible for a Florida Bright Futures Scholarship award enroll in a Florida postsecondary institution and receiving funding.¹⁹ The number of students who don't accept an award immediately after high school graduation who could potentially benefit from the award deferment authorized in the bill is not known, but should be nominal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DOE to prescribe a standardized form to be completed by the student's sponsoring organization.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1009.531, 1009.534, 1009.535, and 1009.536.

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 Fiscal Policy Committee on April 2, 2015:

The committee substitute:

- Allows a student who is eligible for a Florida Bright Futures Scholarship award, but unable to accept the award immediately following high school graduation due to a full-time religious or service obligation lasting at least 18 months, to defer the 2-year initial award period and the 5-year renewal period until the student completes the religious or service obligation;
- Provides an exception in the volunteer service requirement for a student to earn academic credit for service-learning courses; and

¹⁸ Florida Department of Education, *2013-14 Florida Bright Futures Scholarship Program End-of-Year Report*, available at https://www.floridastudentfinancialaidsg.org/pdf/EOY_Reports/2013-14/BF_2013_2014.pdf (last visited March 27, 2015).

¹⁹ Staff analysis of Florida Department of Education, *Florida High School Graduates Eligible for and Receiving Bright Futures* (Sept. 2014), available at <http://www.floridastudentfinancialaid.org/SSFAD/PDF/BFstats/BFReportsB.pdf> (last visited March 27, 2015).

- Repeals references to obsolete academic eligibility requirements for the FAS and FMS awards.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Legg) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (c) of subsection (2) and paragraphs
(a) and (b) of subsection (6) of section 1009.531, Florida
Statutes, are amended to read:

1009.531 Florida Bright Futures Scholarship Program;
student eligibility requirements for initial awards.—

(2)

(c) A student graduating from high school in the 2012-2013



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academic year and thereafter is eligible to accept an initial award for 2 years following high school graduation and to accept a renewal award for 5 years following high school graduation. A student who applies for an award by high school graduation and who meets all other eligibility requirements, but who does not accept his or her award, may reapply during subsequent application periods up to 2 years after high school graduation. For a student who enlists in the United States Armed Forces immediately after completion of high school, the 2-year eligibility period for his or her initial award and the 5-year renewal period shall begin upon the date of separation from active duty. For a student who is receiving a Florida Bright Futures Scholarship award and discontinues his or her education to enlist in the United States Armed Forces, the remainder of his or her 5-year renewal period shall commence upon the date of separation from active duty. For a student who is unable to accept an initial award immediately after completion of high school due to a full-time religious or service obligation lasting at least 18 months, the 2-year eligibility period for his or her initial award and the 5-year renewal period begin upon the completion of his or her religious or service obligation. The organization sponsoring the full-time religious or service obligation must meet the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code or be a federal government service organization that includes, but is not limited to, the Peace Corps and AmeriCorps programs. The obligation must be documented in writing and verified by the entity for which the student completed the obligation on a standardized form prescribed by the department. If a course of



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study is not completed after 5 academic years, an exception of 1 year to the renewal timeframe may be granted due to a verifiable illness or other documented emergency pursuant to s.

1009.40(1)(b)4.

(6)(a) The State Board of Education shall publicize the examination score required for a student to be eligible for a Florida Academic Scholars award, pursuant to s. 1009.534(1)(a) or (b), ~~as follows:~~

~~1. For high school students graduating in the 2010-2011 and 2011-2012 academic years, the student must earn an SAT score of 1270 or a concordant ACT score of 28.~~

~~2. For high school students graduating in the 2012-2013 academic year, the student must earn an SAT score of 1280 which corresponds to the 88th SAT percentile rank or a concordant ACT score of 28.~~

~~3. For High school students graduating in the 2013-2014 academic year and thereafter, the student must earn an SAT score of 1290 which corresponds to the 89th SAT percentile rank or a concordant ACT score of 29.~~

(b) The State Board of Education shall publicize the examination score required for a student to be eligible for a Florida Medallion Scholars award, pursuant to s. 1009.535(1)(a) or (b), ~~as follows:~~

~~1. For high school students graduating in the 2010-2011 academic year, the student must earn an SAT score of 970 or a concordant ACT score of 20 or the student in a home education program whose parent cannot document a college-preparatory curriculum must earn an SAT score of 1070 or a concordant ACT score of 23.~~



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~~2. For high school students graduating in the 2011-2012 academic year, the student must earn an SAT score of 980 which corresponds to the 44th SAT percentile rank or a concordant ACT score of 21 or the student in a home education program whose parent cannot document a college-preparatory curriculum must earn an SAT score of 1070 or a concordant ACT score of 23.~~

~~3. For high school students graduating in the 2012-2013 academic year, the student must earn an SAT score of 1020 which corresponds to the 51st SAT percentile rank or a concordant ACT score of 22 or the student in a home education program whose parent cannot document a college-preparatory curriculum must earn an SAT score of 1070 or a concordant ACT score of 23.~~

~~4. For High school students graduating in the 2013-2014 academic year and thereafter, the student must earn an SAT score of 1170 which corresponds to the 75th SAT percentile rank or a concordant ACT score of 26 or the student in a home education program whose parent cannot document a college-preparatory curriculum must earn an SAT score of 1220 or a concordant ACT score of 27.~~

Section 2. Subsection (1) of section 1009.534, Florida Statutes, is amended to read:

1009.534 Florida Academic Scholars award.—

(1) A student is eligible for a Florida Academic Scholars award if he or she ~~the student~~ meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and ~~the student~~:

(a) Has achieved a 3.5 weighted grade point average as calculated pursuant to s. 1009.531, or its equivalent, in high school courses that are designated by the State Board of



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Education as college-preparatory academic courses~~+~~ and has attained at least the score required under ~~pursuant to~~ s. 1009.531(6) (a) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(b) Has attended a home education program according to s. 1002.41 during grades 11 and 12, ~~or~~ has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, or has completed the Advanced International Certificate of Education curriculum but failed to earn the Advanced International Certificate of Education Diploma, and has attained at least the score required under ~~pursuant to~~ s. 1009.531(6) (a) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(c) Has been awarded an International Baccalaureate Diploma from the International Baccalaureate Office or an Advanced International Certificate of Education Diploma from the University of Cambridge International Examinations Office;

(d) Has been recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist; or

(e) Has been recognized by the National Hispanic Recognition Program as a scholar recipient.



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The ~~A~~ student must complete a program of volunteer community service work, as approved by the district school board, the administrators of a nonpublic school, or the Department of Education for home education program students, which must ~~shall~~ include a minimum of 75 hours of service work for high school students graduating in the 2010-2011 academic year and 100 hours of service work for high school students graduating in the 2011-2012 academic year and thereafter. The student, and must identify a social or civic issue or a professional area ~~problem~~ that interests him or her, develop a plan for his or her personal involvement in addressing the issue or learning about the area ~~problem~~, and, through papers or other presentations, evaluate and reflect upon his or her experience. Except for credit earned through service-learning courses adopted pursuant to s. 1003.497, the student may not receive remuneration or academic credit for the volunteer service work performed. Such work may include, but is not limited to, a business or government internship, work for a nonprofit community service organization, or activity on behalf of a candidate for public office. The hours of volunteer service must be documented in writing, and the document must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student performed the volunteer service work.

Section 3. Subsection (1) of section 1009.535, Florida Statutes, is amended to read:

1009.535 Florida Medallion Scholars award.—

(1) A student is eligible for a Florida Medallion Scholars award if he or she ~~the student~~ meets the general eligibility



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requirements for the Florida Bright Futures Scholarship Program
and ~~the student~~:

(a) Has achieved a weighted grade point average of 3.0 as
calculated pursuant to s. 1009.531, or the equivalent, in high
school courses that are designated by the State Board of
Education as college-preparatory academic courses; and has
attained at least the score required under ~~pursuant to~~ s.
1009.531(6) (b) on the combined verbal and quantitative parts of
the Scholastic Aptitude Test, the Scholastic Assessment Test, or
the recentered Scholastic Assessment Test of the College
Entrance Examination, or an equivalent score on the ACT
Assessment Program;

(b) Has completed the International Baccalaureate
curriculum but failed to earn the International Baccalaureate
Diploma or has completed the Advanced International Certificate
of Education curriculum but failed to earn the Advanced
International Certificate of Education Diploma, and has attained
at least the score required under ~~pursuant to~~ s. 1009.531(6) (b)
on the combined verbal and quantitative parts of the Scholastic
Aptitude Test, the Scholastic Assessment Test, or the recentered
Scholastic Assessment Test of the College Entrance Examination,
or an equivalent score on the ACT Assessment Program;

(c) Has attended a home education program according to s.
1002.41 during grades 11 and 12 and has attained at least the
score required under ~~pursuant to~~ s. 1009.531(6) (b) on the
combined verbal and quantitative parts of the Scholastic
Aptitude Test, the Scholastic Assessment Test, or the recentered
Scholastic Assessment Test of the College Entrance Examination,
or an equivalent score on the ACT Assessment Program, if the



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student's parent cannot document a college-preparatory curriculum as described in paragraph (a);

(d) Has been recognized by the merit or achievement program of the National Merit Scholarship Corporation as a scholar or finalist but has not completed the a program of volunteer community service work required under ~~as provided in~~ s. 1009.534; or

(e) Has been recognized by the National Hispanic Recognition Program as a scholar, but has not completed the a program of volunteer community service work required under ~~as provided in~~ s. 1009.534.

A high school student graduating in the 2011-2012 academic year and thereafter must complete at least 75 hours ~~a program~~ of volunteer community service work approved by the district school board, the administrators of a nonpublic school, or the Department of Education for home education program students. The student, which shall include a minimum of 75 hours of service work, and must identify a social or civic issue or a professional area problem that interests him or her, develop a plan for his or her personal involvement in addressing the issue or learning about the area problem, and, through papers or other presentations, evaluate and reflect upon his or her experience. Except for credit earned through service-learning courses adopted pursuant to s. 1003.497, the student may not receive remuneration or academic credit for volunteer service work performed. Such work may include, but is not limited to, a business or government internship, work for a nonprofit community service organization, or activity on behalf of a



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candidate for public office. The hours of volunteer service must be documented in writing, and the document must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student performed the volunteer service work.

Section 4. Subsection (1) of section 1009.536, Florida Statutes, is amended to read:

1009.536 Florida Gold Seal Vocational Scholars award.—The Florida Gold Seal Vocational Scholars award is created within the Florida Bright Futures Scholarship Program to recognize and reward academic achievement and career preparation by high school students who wish to continue their education.

(1) A student is eligible for a Florida Gold Seal Vocational Scholars award if he or she ~~the student~~ meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and ~~the student~~:

(a) Completes the secondary school portion of a sequential program of studies that requires at least three secondary school career credits. On-the-job training may not be substituted for any of the three required career credits.

(b) Demonstrates readiness for postsecondary education by earning a passing score on the Florida College Entry Level Placement Test or its equivalent as identified by the Department of Education.

(c) Earns a minimum cumulative weighted grade point average of 3.0, as calculated pursuant to s. 1009.531, on all subjects required for a standard high school diploma, excluding elective courses.

(d) Earns a minimum unweighted grade point average of 3.5



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on a 4.0 scale for secondary career courses that comprise
~~comprising~~ the career program.

(e) Beginning with high school students graduating in the
2011-2012 academic year and thereafter, completes at least 30
hours a program of volunteer community service work approved by
the district school board, the administrators of a nonpublic
school, or the Department of Education for home education
program students. The student must identify, which shall include
~~a minimum of 30 hours of service work, and identifies~~ a social
or civic issue or a professional area problem that interests him
or her, develop ~~develops~~ a plan for his or her personal
involvement in addressing the issue or learning about the area
~~problem~~, and, through papers or other presentations, evaluate
~~evaluates~~ and reflect ~~reflects~~ upon his or her experience.
Except for credit earned through service-learning courses
adopted pursuant to s. 1003.497, the student may not receive
remuneration or academic credit for the volunteer service work
performed. Such work may include, but is not limited to, a
business or government internship, work for a nonprofit
community service organization, or activity on behalf of a
candidate for public office. The hours of volunteer service must
be documented in writing, and the document must be signed by the
student, the student's parent or guardian, and a representative
of the organization for which the student performed the
volunteer service work.

Section 5. This act shall take effect July 1, 2015.

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



835856

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Florida Bright Futures
Scholarship Program; amending s. 1009.531, F.S.;
providing that the initial award period and the
renewal period for students who are unable to accept
an initial award immediately after completion of high
school due to a full-time religious or service
obligation begin upon the completion of the religious
or service obligation; specifying requirements for an
entity that is sponsoring the obligation; requiring
verification from the entity for which the student
completed such obligation; revising eligibility
requirements for the Florida Bright Futures
Scholarship Program; deleting obsolete provisions;
amending ss. 1009.534, 1009.535, and 1009.536, F.S.;
requiring a student, as a prerequisite for the Florida
Academic Scholars award, the Florida Medallion
Scholars award, or the Florida Gold Seal Vocational
Scholars award, to identify a social or civic issue or
a professional area of interest and develop a plan for
his or her personal involvement in addressing the
issue or learning about the area; prohibiting the
student from receiving remuneration or academic credit
for the volunteer service work performed except in
certain circumstances; requiring the hours of
volunteer service work to be documented in writing and
signed by the student, the student's parent or



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302 guardian, and a representative of the organization for
303 which the student performed the volunteer service
304 work; providing an effective date.

By Senator Lee

24-00358A-15

2015960__

A bill to be entitled

An act relating to the Florida Bright Futures Scholarship Program; amending ss. 1009.534, 1009.535, and 1009.536, F.S.; requiring a student, as a prerequisite for the Florida Academic Scholars award, the Florida Medallion Scholars award, or the Florida Gold Seal Vocational Scholars award, to identify a social or civic issue or a professional area of interest and develop a plan for his or her personal involvement in addressing the issue or learning about the area; prohibiting the student from receiving remuneration or academic credit for the volunteer service work performed; providing examples of volunteer service work; requiring that the hours of volunteer service work performed be documented in writing and the document be signed by certain individuals; deleting obsolete provisions; providing an effective date.

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

Section 1. Subsection (1) of section 1009.534, Florida Statutes, is amended to read:

1009.534 Florida Academic Scholars award.—

(1) A student is eligible for a Florida Academic Scholars award if he or she ~~the student~~ meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and ~~the student~~:

(a) Has achieved a 3.5 weighted grade point average as

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

24-00358A-15

2015960__

calculated pursuant to s. 1009.531, or its equivalent, in high school courses that are designated by the State Board of Education as college-preparatory academic courses, and has attained at least the score required under ~~pursuant to~~ s. 1009.531(6) (a) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(b) Has attended a home education program according to s. 1002.41 during grades 11 and 12, ~~or~~ has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, or has completed the Advanced International Certificate of Education curriculum but failed to earn the Advanced International Certificate of Education Diploma, and has attained at least the score required under ~~pursuant to~~ s. 1009.531(6) (a) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(c) Has been awarded an International Baccalaureate Diploma from the International Baccalaureate Office or an Advanced International Certificate of Education Diploma from the University of Cambridge International Examinations Office;

(d) Has been recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist; or

(e) Has been recognized by the National Hispanic

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24-00358A-15

2015960

Recognition Program as a scholar recipient.

The A student must complete a program of volunteer community service work, as approved by the district school board, the administrators of a nonpublic school, or the Department of Education for home education program students, which ~~must~~ shall include a minimum of 75 hours of service work for high school students graduating in the 2010-2011 academic year and 100 hours of service work for high school students graduating in the 2011-2012 academic year and thereafter. ~~The student, and~~ must identify a social or civic issue or a professional area ~~problem~~ that interests him or her, develop a plan for his or her personal involvement in addressing the issue or learning about the area ~~problem~~, and, through papers or other presentations, evaluate and reflect upon his or her experience. The student may not receive remuneration or academic credit for the volunteer service work performed. Such work may include, but is not limited to, a business or government internship, work for a nonprofit community service organization, or activity on behalf of a candidate for public office. The hours of volunteer service work must be documented in writing, and the document must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student performed the volunteer service work.

Section 2. Subsection (1) of section 1009.535, Florida Statutes, is amended to read:

1009.535 Florida Medallion Scholars award.—

(1) A student is eligible for a Florida Medallion Scholars award if he or she ~~the student~~ meets the general eligibility

24-00358A-15

2015960

requirements for the Florida Bright Futures Scholarship Program and ~~the student~~:

(a) Has achieved a weighted grade point average of 3.0 as calculated pursuant to s. 1009.531, or the equivalent, in high school courses that are designated by the State Board of Education as college-preparatory academic courses, and has attained at least the score required under ~~pursuant to~~ s. 1009.531(6) (b) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(b) Has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma or has completed the Advanced International Certificate of Education curriculum but failed to earn the Advanced International Certificate of Education Diploma, and has attained at least the score required under ~~pursuant to~~ s. 1009.531(6) (b) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program;

(c) Has attended a home education program according to s. 1002.41 during grades 11 and 12 and has attained at least the score required under ~~pursuant to~~ s. 1009.531(6) (b) on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the ACT Assessment Program, if the

24-00358A-15

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student's parent cannot document a college-preparatory curriculum as described in paragraph (a);

(d) Has been recognized by the merit or achievement program of the National Merit Scholarship Corporation as a scholar or finalist but has not completed the a program of volunteer community service work required under as provided in s. 1009.534; or

(e) Has been recognized by the National Hispanic Recognition Program as a scholar, but has not completed the a program of volunteer community service work required under as provided in s. 1009.534.

The A high school student graduating in the 2011-2012 academic year and thereafter must complete at least 75 hours a program of volunteer community service work approved by the district school board, the administrators of a nonpublic school, or the Department of Education for home education program students. The student, which shall include a minimum of 75 hours of service work, and must identify a social or civic issue or a professional area problem that interests him or her, develop a plan for his or her personal involvement in addressing the issue or learning about the area problem, and, through papers or other presentations, evaluate and reflect upon his or her experience. The student may not receive remuneration or academic credit for the volunteer service work performed. Such work may include, but is not limited to, a business or government internship, work for a nonprofit community service organization, or activity on behalf of a candidate for public office. The hours of volunteer service work must be documented in writing, and the document

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must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student performed the volunteer service work.

Section 3. Subsection (1) of section 1009.536, Florida Statutes, is amended to read:

1009.536 Florida Gold Seal Vocational Scholars award.—The Florida Gold Seal Vocational Scholars award is created within the Florida Bright Futures Scholarship Program to recognize and reward academic achievement and career preparation by high school students who wish to continue their education.

(1) A student is eligible for a Florida Gold Seal Vocational Scholars award if he or she ~~the student~~ meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and ~~the student~~:

(a) Completes the secondary school portion of a sequential program of studies which ~~that~~ requires at least three secondary school career credits. On-the-job training may not be substituted for any of the three required career credits.

(b) Demonstrates readiness for postsecondary education by earning a passing score on the Florida College Entry Level Placement Test or its equivalent as identified by the Department of Education.

(c) Earns a minimum cumulative weighted grade point average of 3.0, as calculated pursuant to s. 1009.531, on all subjects required for a standard high school diploma, excluding elective courses.

(d) Earns a minimum unweighted grade point average of 3.5 on a 4.0 scale for secondary career courses that compose ~~comprising~~ the career program.

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175 (e) Beginning with high school students graduating in the
176 2011-2012 academic year and thereafter, completes at least 30
177 hours a program of volunteer ~~community~~ service work approved by
178 the district school board, the administrators of a nonpublic
179 school, or the Department of Education for home education
180 program students. ~~The student must identify, which shall include~~
181 ~~a minimum of 30 hours of service work, and identifies~~ a social
182 or civic issue or a professional area ~~problem~~ that interests him
183 or her, ~~develop~~ develops a plan for his or her personal
184 involvement in addressing the issue or learning about the area
185 ~~problem~~, and, through papers or other presentations, evaluate
186 ~~evaluates~~ and reflect ~~reflects~~ upon his or her experience. The
187 student may not receive remuneration or academic credit for the
188 volunteer service work performed. Such work may include, but is
189 not limited to, a business or government internship, work for a
190 nonprofit community service organization, or activity on behalf
191 of a candidate for public office. The hours of volunteer service
192 work must be documented in writing, and the document must be
193 signed by the student, the student's parent or guardian, and a
194 representative of the organization for which the student
195 performed the volunteer service work.

196 Section 4. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Appropriations Subcommittee on General
Government
Banking and Insurance
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE
24th District

March 19, 2015

The Honorable Anitere Flores
Senate Committee Fiscal Policy, Chair
413 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chair Flores,

I respectfully request that SB 960 related to the *Florida Bright Futures Scholarship Program*, be placed on the Senate Committee on Fiscal Policy agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee".

Tom Lee
Senator, District 24

Cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

- ☐ 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- ☐ 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/15

SB 960

Meeting Date

Bill Number (if applicable)

Topic Florida Bright Futures Scholarship Program

Amendment Barcode (if applicable)

Name Brittney Burch

Job Title Director of Education Policy

Address 136 S. Bronough Street

Phone (850) 521-1279

Street

Tallahassee

FL

32301

Email bburch@flchamber.com

City

State

Zip

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

4-12-15

Meeting Date

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

SB 960

Bill Number (if applicable)

Topic Bright Futures

Amendment Barcode (if applicable)

Name RICHARD GENTRY

Job Title _____

Address 2305 Braeburn Circle

Street

Phone 251-1837

Tallahassee FL 32309

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Palm Bch Economic Council

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
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 Fiscal Policy

BILL: PCS/SB 1140 (884566)

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development) and Senator Montford

SUBJECT: Bright Futures Scholarship Program

DATE: April 1, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	HE	Favorable
2.	Sikes	Elwell	AED	Recommend: Fav/CS
3.	Pace	Hrdlicka	FP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1140 allows a student who is eligible for a Florida Bright Futures Scholarship award, but unable to accept the award immediately following high school graduation due to a full-time religious or service obligation lasting at least 18 months, to defer the 2-year initial award period and the 5-year renewal period until the student completes the religious or service obligation.

This bill has a minimal fiscal impact. The number of students who could potentially benefit from the award deferment authorized in the bill is not known.

II. Present Situation:

The Florida Bright Futures Scholarship Program (program) is a lottery-funded scholarship program to reward a Florida high school graduate who merits recognition for high academic achievement and who enrolls in a degree program, certificate program, or applied technology program at an eligible public or private postsecondary institution in Florida after graduating from

high school.¹ The Department of Education (DOE) administers the program in accordance with rules and procedures adopted by the State Board of Education.²

The program consists of three types of awards:

- Florida Academic Scholarship (FAS);³
- Florida Medallion Scholarship (FMS);⁴ and
- Florida Gold Seal Vocational Scholarship (FGSV).⁵

To be eligible to receive a program award, a student must meet the general eligibility criteria for initial⁶ and renewal awards.⁷ The student must also satisfy specific eligibility criteria for each of the three award programs and complete a program of community service work.⁸

Currently, a student who graduates from high school having met the requirements of a Florida Bright Futures Scholarship award is eligible to accept:

- An initial award for a period of 2 years,⁹ and
- A renewal award for 5 years after graduating from high school.¹⁰

A student who enlists in the United States Armed Forces immediately after high school graduation can defer the 2-year eligibility period for initial award and 5-year renewal period of the award until the student separates from active duty.¹¹ Also, for a student who receives the scholarship award but discontinues his or her education to enlist in the United States Armed Forces, the remainder of his or her 5-year renewal period commences upon the date of separation from active duty.¹²

III. Effect of Proposed Changes:

The bill modifies the student eligibility requirements for initial award of the Florida Bright Futures Scholarship. The bill allows a student who is eligible for a Florida Bright Futures Scholarship award, but unable to accept the award immediately following high school graduation due to a full-time religious or service obligation lasting at least 18 months, to defer the 2-year

¹ Sections 1009.53(1), F.S. and 1009.531(2)(a-c), F.S., specify a student graduating from high school prior to the 2010-2011 academic year is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 7 years following high school graduation. Each student graduating in the 2010-2011 and 2011-2012 academic school years is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 5 years following high school graduation. In the 2012-2013 academic school year, and thereafter, a student graduating from high school is able to accept an initial award for 2 years following high school graduation and to accept a renewal award for 5 years following high school graduation.

² Section 1009.53(3), F.S.

³ Section 1009.534, F.S.

⁴ Section 1009.535, F.S.

⁵ Section 1009.536, F.S.

⁶ Section 1009.531, F.S.

⁷ Section 1009.532, F.S.

⁸ Sections 1009.534(1), 1009.535(1), and 1009.536(1)(e), F.S.

⁹ Section 1009.531(2)(c), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

initial award period and the 5-year renewal period until the student completes the religious or service obligation.

For the student to be eligible for the deferment, the religious or service obligation sponsoring organization must meet the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code or be a federal government service organization, such as the Peace Corps and AmeriCorps programs. The sponsoring organization must document, in writing, and verify the student's religious obligation or service work on a standardized form prescribed by the Department of Education.

In effect, students that would otherwise forfeit a scholarship due to participation in a religious or service obligation may retain eligibility, similar to the flexibility currently granted to students who enlist in the Armed Forces.

The bill takes effect on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill more students may remain eligible for the Florida Bright Futures Scholarship award due to the religious or service obligation deferment option. In the 2013-2014 fiscal year, the average Florida Bright Futures Scholarship award was \$1,973.¹³

¹³ Florida Department of Education, *2013-14 Florida Bright Futures Scholarship Program End-of-Year Report*, available at https://www.floridastudentfinancialaidsg.org/pdf/EOY_Reports/2013-14/BF_2013_2014.pdf (last visited March 27, 2015).

The bill may encourage more students to participate in religious or service activities after high school graduation because they can remain eligible for a Bright Futures Scholarship award.

C. Government Sector Impact:

This bill has a minimal fiscal impact. Approximately 80 percent of students initially eligible for a Florida Bright Futures Scholarship award enroll in a Florida postsecondary institution and receiving funding.¹⁴ The number of students who don't accept an award immediately after high school graduation who could potentially benefit from the award deferment authorized in the bill is not known, but should be nominal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DOE to prescribe a standardized form to be completed by the student's sponsoring organization.

VIII. Statutes Affected:

This bill substantially amends section 1009.531 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.)

Recommended CS by Appropriations Subcommittee on Education on March 19, 2015:

The committee substitute:

- Clarifies that for a student to be eligible for an award deferment, the sponsoring organization for the full-time religious or service obligation must meet the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code or be a federal government service organization that includes, but is not limited to, the Peace Corps and AmeriCorps programs.
- Specifies that the religious or service obligation must be documented and verified on a standardized form prescribed by the Department of Education.

B. Amendments:

None.

¹⁴ Staff analysis of Florida Department of Education, *Florida High School Graduates Eligible for and Receiving Bright Futures* (Sept. 2014), available at <http://www.floridastudentfinancialaid.org/SSFAD/PDF/BFstats/BFReportsB.pdf> (last visited March 27, 2015).

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



884566

594-02557-15

Proposed Committee Substitute by the Committee on Fiscal Policy
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to the Bright Futures Scholarship Program; amending s. 1009.531, F.S.; providing that the initial award and renewal period for students who are unable to accept an initial award immediately after completion of high school due to a full-time religious or service obligation begins upon the completion of the religious or service obligation; specifying requirements for an entity that is sponsoring the obligation; requiring verification from the entity for which the student completed such obligation; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2) of section 1009.531, Florida Statutes, is amended to read:

1009.531 Florida Bright Futures Scholarship Program; student eligibility requirements for initial awards.-

(2)

(c) A student graduating from high school in the 2012-2013 academic year and thereafter is eligible to accept an initial award for 2 years following high school graduation and to accept a renewal award for 5 years following high school graduation. A student who applies for an award by high school graduation and who meets all other eligibility requirements, but who does not accept his or her award, may reapply during subsequent



884566

594-02557-15

application periods up to 2 years after high school graduation. For a student who enlists in the United States Armed Forces immediately after completion of high school, the 2-year eligibility period for his or her initial award and the 5-year renewal period shall begin upon the date of separation from active duty. For a student who is receiving a Florida Bright Futures Scholarship award and discontinues his or her education to enlist in the United States Armed Forces, the remainder of his or her 5-year renewal period shall commence upon the date of separation from active duty. For a student who is unable to accept an initial award immediately after completion of high school due to a full-time religious or service obligation lasting at least 18 months, the 2-year eligibility period for his or her initial award and the 5-year renewal period begin upon the completion of his or her religious or service obligation. The organization sponsoring the full-time religious or service obligation must meet the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code or be a federal government service organization that includes, but is not limited to, the Peace Corps and AmeriCorps programs. The obligation must be documented in writing and verified by the entity for which the student completed the obligation on a standardized form prescribed by the department. If a course of study is not completed after 5 academic years, an exception of 1 year to the renewal timeframe may be granted due to a verifiable illness or other documented emergency pursuant to s. 1009.40(1)(b)4.

Section 2. This act shall take effect July 1, 2015.

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 Fiscal Policy

BILL: CS/SB 1140

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development) and Senator Montford

SUBJECT: Bright Futures Scholarship Program

DATE: April 3, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	HE	Favorable
2.	Sikes	Elwell	AED	Recommend: Fav/CS
3.	Pace	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1140 allows a student who is eligible for a Florida Bright Futures Scholarship award, but unable to accept the award immediately following high school graduation due to a full-time religious or service obligation lasting at least 18 months, to defer the 2-year initial award period and the 5-year renewal period until the student completes the religious or service obligation.

This bill has a minimal fiscal impact. The number of students who could potentially benefit from the award deferment authorized in the bill is not known.

II. Present Situation:

The Florida Bright Futures Scholarship Program (program) is a lottery-funded scholarship program to reward a Florida high school graduate who merits recognition for high academic achievement and who enrolls in a degree program, certificate program, or applied technology program at an eligible public or private postsecondary institution in Florida after graduating from

high school.¹ The Department of Education (DOE) administers the program in accordance with rules and procedures adopted by the State Board of Education.²

The program consists of three types of awards:

- Florida Academic Scholarship (FAS);³
- Florida Medallion Scholarship (FMS);⁴ and
- Florida Gold Seal Vocational Scholarship (FGSV).⁵

To be eligible to receive a program award, a student must meet the general eligibility criteria for initial⁶ and renewal awards.⁷ The student must also satisfy specific eligibility criteria for each of the three award programs and complete a program of community service work.⁸

Currently, a student who graduates from high school having met the requirements of a Florida Bright Futures Scholarship award is eligible to accept:

- An initial award for a period of 2 years,⁹ and
- A renewal award for 5 years after graduating from high school.¹⁰

A student who enlists in the United States Armed Forces immediately after high school graduation can defer the 2-year eligibility period for initial award and 5-year renewal period of the award until the student separates from active duty.¹¹ Also, for a student who receives the scholarship award but discontinues his or her education to enlist in the United States Armed Forces, the remainder of his or her 5-year renewal period commences upon the date of separation from active duty.¹²

III. Effect of Proposed Changes:

The bill modifies the student eligibility requirements for initial award of the Florida Bright Futures Scholarship. The bill allows a student who is eligible for a Florida Bright Futures Scholarship award, but unable to accept the award immediately following high school graduation due to a full-time religious or service obligation lasting at least 18 months, to defer the 2-year

¹ Sections 1009.53(1), F.S. and 1009.531(2)(a-c), F.S., specify a student graduating from high school prior to the 2010-2011 academic year is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 7 years following high school graduation. Each student graduating in the 2010-2011 and 2011-2012 academic school years is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 5 years following high school graduation. In the 2012-2013 academic school year, and thereafter, a student graduating from high school is able to accept an initial award for 2 years following high school graduation and to accept a renewal award for 5 years following high school graduation.

² Section 1009.53(3), F.S.

³ Section 1009.534, F.S.

⁴ Section 1009.535, F.S.

⁵ Section 1009.536, F.S.

⁶ Section 1009.531, F.S.

⁷ Section 1009.532, F.S.

⁸ Sections 1009.534(1), 1009.535(1), and 1009.536(1)(e), F.S.

⁹ Section 1009.531(2)(c), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

initial award period and the 5-year renewal period until the student completes the religious or service obligation.

For the student to be eligible for the deferment, the religious or service obligation sponsoring organization must meet the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code or be a federal government service organization, such as the Peace Corps and AmeriCorps programs. The sponsoring organization must document, in writing, and verify the student's religious obligation or service work on a standardized form prescribed by the Department of Education.

In effect, students that would otherwise forfeit a scholarship due to participation in a religious or service obligation may retain eligibility, similar to the flexibility currently granted to students who enlist in the Armed Forces.

The bill takes effect on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill more students may remain eligible for the Florida Bright Futures Scholarship award due to the religious or service obligation deferment option. In the 2013-2014 fiscal year, the average Florida Bright Futures Scholarship award was \$1,973.¹³

¹³ Florida Department of Education, *2013-14 Florida Bright Futures Scholarship Program End-of-Year Report*, available at https://www.floridastudentfinancialaidsg.org/pdf/EOY_Reports/2013-14/BF_2013_2014.pdf (last visited March 27, 2015).

The bill may encourage more students to participate in religious or service activities after high school graduation because they can remain eligible for a Bright Futures Scholarship award.

C. Government Sector Impact:

This bill has a minimal fiscal impact. Approximately 80 percent of students initially eligible for a Florida Bright Futures Scholarship award enroll in a Florida postsecondary institution and receiving funding.¹⁴ The number of students who don't accept an award immediately after high school graduation who could potentially benefit from the award deferment authorized in the bill is not known, but should be nominal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DOE to prescribe a standardized form to be completed by the student's sponsoring organization.

VIII. Statutes Affected:

This bill substantially amends section 1009.531 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 Fiscal Policy on April 2, 2015:

As recommended by Appropriations Subcommittee on Education the committee substitute:

- Clarifies that for a student to be eligible for an award deferment, the sponsoring organization for the full-time religious or service obligation must meet the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code or be a federal government service organization that includes, but is not limited to, the Peace Corps and AmeriCorps programs.
- Specifies that the religious or service obligation must be documented and verified on a standardized form prescribed by the Department of Education.

¹⁴ Staff analysis of Florida Department of Education, *Florida High School Graduates Eligible for and Receiving Bright Futures* (Sept. 2014), available at <http://www.floridastudentfinancialaid.org/SSFAD/PDF/BFstats/BFReportsB.pdf> (last visited March 27, 2015).

B. Amendments:

None.

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

By Senator Montford

3-00824-15

20151140__

A bill to be entitled

An act relating to the Bright Futures Scholarship Program; amending s. 1009.531, F.S.; providing that the initial award and renewal period for students who are unable to accept an initial award immediately after completion of high school due to a full-time religious or service obligation begins upon the completion of the religious or service obligation; requiring verification from the entity for which the student completed such obligation; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2) of section 1009.531, Florida Statutes, is amended to read:

1009.531 Florida Bright Futures Scholarship Program; student eligibility requirements for initial awards.—

(2)

(c) A student graduating from high school in the 2012-2013 academic year and thereafter is eligible to accept an initial award for 2 years following high school graduation and to accept a renewal award for 5 years following high school graduation. A student who applies for an award by high school graduation and who meets all other eligibility requirements, but who does not accept his or her award, may reapply during subsequent application periods up to 2 years after high school graduation. For a student who enlists in the United States Armed Forces immediately after completion of high school, the 2-year

Page 1 of 2

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

3-00824-15

20151140__

eligibility period for his or her initial award and the 5-year renewal period shall begin upon the date of separation from active duty. For a student who is receiving a Florida Bright Futures Scholarship award and discontinues his or her education to enlist in the United States Armed Forces, the remainder of his or her 5-year renewal period shall commence upon the date of separation from active duty. For a student who is unable to accept an initial award immediately after completion of high school due to a full-time religious or service obligation lasting at least 18 months, the 2-year eligibility period for his or her initial award and the 5-year renewal period begin upon the completion of his or her religious or service obligation. The full-time religious or service obligation must be documented in writing and verified by the entity for which the student completed such obligation. If a course of study is not completed after 5 academic years, an exception of 1 year to the renewal timeframe may be granted due to a verifiable illness or other documented emergency pursuant to s. 1009.40(1)(b)4.

Section 2. This act shall take effect July 1, 2015.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Subcommittee on Education, *Vice Chair*
Appropriations
Banking and Insurance
Education Pre-K - 12
Rules

SENATOR BILL MONTFORD

3rd District

March 20, 2015

Senator Anitere Flores,
Chair
Senate Committee on Fiscal Policy
225 Knott Building
Tallahassee, Florida 32399-1100

Dear Senator Flores:

I respectfully request that SB 1140, a bill relating to Bright Futures Scholarship, be scheduled for a hearing before the Senate Fiscal Policy Committee.

Your assistance and favorable consideration of my request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William "Bill" Montford
Senate District 3

WM/md

Cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

- ☐ 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- ☐ 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 7002

INTRODUCER: Fiscal Policy Committee and Commerce and Tourism Committee

SUBJECT: Renaming Workforce Florida, Inc.

DATE: April 2, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Siples	McKay		CM Submitted as Committee Bill
1.	Peacock	McVaney	GO	Favorable
2.	Hrdlicka	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7002 replaces all references currently made in the Florida Statutes to Workforce Florida, Inc., with CareerSource Florida, Inc., the new name of the organization.

The bill also creates a task force to develop the state's plan for implementing the federal Workforce Innovation and Opportunity Act of 2014.

The bill has an insignificant, negative fiscal impact to state agencies.

II. Present Situation:

Florida has a three-tier system for the delivery of workforce services through the Department of Economic Opportunity, Workforce Florida, Inc., and the regional workforce boards.¹

Workforce Florida, Inc., (WFI) is a nonprofit corporation that sets the state's workforce development policy and provides state-level planning, performance evaluation, and oversight to the Department of Economic Opportunity (DEO) and the 24 regional workforce boards.² The DEO serves as the fiscal and administrative agency and assists WFI in developing and disseminating policies, providing technical assistance, and monitoring a variety of workforce

¹ Chapter 445, F.S. See also ch. 2000-165, L.O.F.

² WFI is Florida's state workforce investment board. See 29 U.S.C. 2821. WFI operates under a performance-based contract with the DEO to provide statewide administration and coordination of workforce services.

programs.³ Each of the 24 regional workforce boards (RWB) directly provides workforce services in local workforce areas through one-stop career centers.⁴ The one-stop career centers deliver employment services to job seekers and employers. Services include job placement and recruitment assistance as well as funding for skills training.

Workforce System's Statewide Brand

In 2012, the Legislature passed the Regional Workforce Boards Accountability Act to direct WFI to evaluate a means to establish a single, statewide brand for the state's workforce system.⁵ At the time of passage, each of the 24 RWBs maintained individual names, logos, and branding for each of their respective boards and the nearly 100 one-stop career centers. The lack of a unified brand contributed to confusion among job seekers and employers who could have benefitted from the services being offered.⁶

WFI, in collaboration with the DEO and the RWBs, began the process of establishing single, statewide brand and identity.⁷ Statewide surveys of stakeholders were conducted to assess awareness and perceptions of the workforce system and to test proposed brand names and logos.⁸ CareerSource Florida was strongly preferred by those surveyed,⁹ and in May 2013, the WFI Board of Directors approved the new brand name, logo, and unified brand charter.¹⁰ Each RWB was allotted funding, based on its size, to assist with the brand transition. The board of directors also approved additional incentive funding for RWBs that met certain branding achievements within specified time frames.¹¹

On February 10, 2014, WFI launched the new statewide brand, CareerSource Florida.¹² With this launch, Florida became the first state to achieve a unified brand and logo for its workforce system. Each RWB and one-stop career center uses an aligned regional brand name that starts with "CareerSource" and is followed by a regional identifier. CareerSource Florida, Inc., was officially established with the Department of State on July 10, 2014.¹³

³ Primarily through the Division of Workforce Services. The DEO is Florida's lead state workforce agency.

⁴ The boards select contractors to operate the local one-stop career centers. *See also* ss. 445.004(11), 445.007, and 445.009(3), F.S. Each RWB operates under a charter approved by WFI and performance-based memorandums of understanding for program support services provided by the DEO "Program support services" provided by the DEO include workforce program information, guidance, training, and technical assistance. The DEO monitors the activities of each RWB and one-stop career center to ensure compliance with federal and state requirements.

⁵ Section 445.007(13), F.S. (2013). Section 2, ch. 2012-29, L.O.F.

⁶ DEO, *CareerSource Florida Unified Brand Implementation Guidelines* (October 31, 2013), available at <http://www.floridajobs.org/PDG/guidancepapers/BrandImplementationGuidelinesFinal.pdf> (last visited Feb. 24, 2015).

⁷ CareerSource Florida, Inc., *Statewide Brand Implementation Plan* (October 21, 2013), p. 7, available at http://careersourceflorida.com/docking/StatewideBrandImplementationPlan_102113.pdf (last visited Feb. 24, 2015).

⁸ *Id.* at 30. The process engaged more than 1,500 business leaders, workforce professionals, employers, and job seekers.

⁹ DEO, *Brand Implementation Guidelines* at 2.

¹⁰ CareerSource Florida, *Statewide Brand Implementation* at 7.

¹¹ DEO, *Brand Implementation Guidelines* at 6-8.

¹² Press Release, CareerSource Florida, Inc., *Florida Activates New Unified Workforce Brand* (Feb. 10, 2014), available at <http://careersourceflorida.com/wp-content/uploads/2014/01/CareerSourceFloridaLaunchRelease.pdf> (last visited Feb. 24, 2015).

¹³ *See* information on the Department of State, Division of Corporation's Sunbiz website by searching for "CareerSource Florida, Inc." available at <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> (last visited Feb. 27, 2015).

Federal Workforce Innovation and Opportunity Act of 2014

The federal Workforce Innovation and Opportunity Act (WIOA) became law on July 22, 2014.¹⁴ The WIOA replaces the federal Workforce Innovation Act of 1998 (WIA), which Florida implemented in the Workforce Innovation Act of 2000, amending s. 445.003, F.S.¹⁵ In general, the WIOA maintains the framework of the WIA but includes provisions aimed at streamlining programs, easing reporting requirements, and reducing administrative barriers.

WIOA officially becomes effective on July 1, 2015, the first full program year after enactment. However, some provisions, such as those related to state unified plans and common performance accountability, do not become effective until July 1, 2016.¹⁶ The United States Department of Labor is currently in the rulemaking process for the WIOA, which it expects to complete by spring of 2015. Until the rulemaking process is complete, the law's specific implementation procedures and processes will remain unclear.¹⁷ The U.S. Department of Labor recommends that state workforce systems take actions to prepare for the ultimate implementation of the law, including engaging with "core programs and other partners to begin strategic planning" and developing transition plans.¹⁸

III. Effect of Proposed Changes:

CareerSource Florida, Inc.

Sections 1 – 3 and 5 – 59 amend ss. 11.45, 20.60, 216.136, 288.047, 288.0656, 288.1252, 288.901, 288.903, 295.22, 320.20, 331.3051, 331.369, 403.973, 409.1451, 413.405, 413.407, 414.045, 414.105, 414.106, 414.295, 414.55, 420.622, 443.091, 443.171, 443.181, 445.003, 445.004, 445.006, 445.007, 445.0071, 445.008, 445.009, 445.011, 445.014, 445.016, 445.021, 445.022, 445.024, 445.026, 445.028, 445.030, 445.033, 445.035, 445.038, 445.045, 445.048, 445.051, 445.055, 446.41, 446.50, 1003.491, 1003.492, 1003.493, 1003.51, 1003.52, 1004.015, 1011.80, and 1011.801, F.S., respectively, to replace all references to Workforce Florida, Inc., with its new name, CareerSource Florida, Inc.

Sections 5, 7 – 11, 14, 16 – 19, 21, 23 – 28, 32, 33, 38, 43, and 46 – 53 make editorial and technical changes to ss. 288.047, 288.1252, 288.901, 288.903, 295.22, 320.20, 403.973, 413.405, 413.407, 414.045, 414.105, 414.295, 420.622, 443.091, 443.171, 443.181, 445.003, 445.004, 445.008, 445.009, 445.022, 445.033, 445.045, 445.048, 445.051, 445.055, 446.41, 446.50, 1003.491, and 1003.492, F.S., respectively,

Section 4 amends s. 218.077, F.S., to repeal obsolete language.

¹⁴ Pub. L. No. 113-128 (113th Congress).

¹⁵ Chapter 2000-165, L.O.F.

¹⁶ U.S. Department of Labor, Employment and Training Administration, *WIOA Fact Sheet*, available at <http://www.doleta.gov/wioa/pdf/WIOA-Factsheet.pdf> (last visited Mar. 2, 2015).

¹⁷ For more information, see U.S. Department of Labor, Employment and Training Administration, *Workforce Innovation and Opportunity Act of 2014*, available at <http://www.doleta.gov/WIOA/> (last visited Mar. 2, 2015).

¹⁸ U.S. Department of Labor, Employment and Training Administration, *Training and Employment Guidance Letter No. 19-14* (Feb. 19, 2015).

Federal Workforce Innovation and Opportunity Act – Task Force

Section 60 creates a 20-member task force to assist the state in meeting the requirements and preparing for the implementation of the WIOA. The task force must develop recommendations for Florida's implementation of the WIOA.

The task force must organize by June 1, 2015. The President of CareerSource, Florida, Inc., is required to serve as the chair of the task force and the President of the Florida Workforce Development Association, Inc., must serve on the task force. The other members of the task force include the following individuals or their designees:

- Executive Director of the DEO;
- Commissioner of Education;
- Chancellor of the State University System;
- Chancellor of the Florida College System;
- Chancellor of the Division of Career and Adult Education of the Department of Education;
- Director of the Division of Vocational Rehabilitation of the Department of Education;
- Director of the Division of Blind Services of the Department of Education;
- Director of the Agency for Persons with Disabilities;
- Secretary of Elderly Affairs;
- Secretary of Children and Families;
- Secretary of Juvenile Justice;
- Secretary of Corrections;
- President of Enterprise Florida, Inc.;
- Two designees of the President of the Florida Workforce Development Association, Inc., from regional workforce boards, one of whom must be a representative of a rural regional workforce board;
- Statewide director of the Florida Small Business Development Center Network;
- President of the Florida Association of Postsecondary Schools and Colleges, Inc.; and
- President of the Independent Colleges and Universities of Florida, Inc.

CareerSource Florida, Inc., must provide administrative support for the task force. The members of the task force serve without compensation but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, F.S. Such per diem and travel expenses incurred by a member of the task force must be paid from funds budgeted to the state agency or entity that the member represents.

The task force must submit its recommendations to the Board of Directors of CareerSource Florida, Inc., for approval. The recommendations must include the following:

- A review of the current workforce service delivery system and programs;
- Regional planning design;
- One-stop service delivery design;
- Integration of the state's economic development, workforce development, and education systems; and
- Development of sector strategies and career pathways.

The task force will submit the final report to the Governor, the President of the Senate, and Speaker of the House of Representatives by December 1, 2015. Additionally, CareerSource Florida, Inc., must incorporate the task force's approved recommendations into the state's plan required by the WIOA. After the Board of Directors of CareerSource Florida, Inc., approves the state plan, it must be submitted to the U.S. Department of Labor, the Governor, President of the Senate, and Speaker of the House of Representatives.

The task force is abolished June 30, 2016, or at an earlier date as provided by the task force.

Effective Date

Section 61 provides the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not contain a mandate because the bill does not affect counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that a private organization refers to Workforce Florida, Inc., in any literature it produces, the private organization may incur minimal costs associated with updating the literature with the new name, CareerSource Florida, Inc.

C. Government Sector Impact:

A governmental organization that refers to Workforce Florida, Inc., in any literature that it produces may incur costs associated with updating the literature with the new name, CareerSource Florida, Inc.

The bill may have an insignificant, negative fiscal impact to CareerSource Florida, Inc., to support the task force created to implement the WIOA that can be absorbed within the agency's existing resources. The entities that have representation on the task force will

incur minimal costs related to paying for the per diem and travel expenses for their respective members of the task force.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 20.60, 216.136, 218.077, 288.047, 288.0656, 288.1252, 288.901, 288.903, 295.22, 320.20, 331.3051, 331.369, 403.973, 409.1451, 413.405, 413.407, 414.045, 414.105, 414.106, 414.295, 414.55, 420.622, 443.091, 443.171, 443.181, 445.003, 445.004, 445.006, 445.007, 445.0071, 445.008, 445.009, 445.011, 445.014, 445.016, 445.021, 445.022, 445.024, 445.026, 445.028, 445.030, 445.033, 445.035, 445.038, 445.045, 445.048, 445.051, 445.055, 446.41, 446.50, 1003.491, 1003.492, 1003.493, 1003.51, 1003.52, 1004.015, 1011.80, and 1011.801.

This bill creates an undesignated section of Florida law.

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 Fiscal Policy on April 2, 2015:

The CS creates a task force to develop the state's plan for implementing the federal Workforce Innovation and Opportunity Act of 2014, and changes the effective date of the bill from July 1, 2015, to upon becoming law.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete line 2934
and insert:

Section 60. (1) There is created a task force on
preparation for the state's implementation of the federal
Workforce Innovation and Opportunity Act, Pub. L. No. 113-128.
The task force is assigned to CareerSource Florida, Inc., for
administrative purposes only.

(2) The task force shall convene no later than June 1,
2015, and shall be composed of the following 20 members:



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12 (a) The president of CareerSource Florida, Inc., who shall
13 serve as chair of the task force.

14 (b) The executive director of the Department of Economic
15 Opportunity or his or her designee.

16 (c) The Commissioner of Education or his or her designee.

17 (d) The Chancellor of the State University System or his or
18 her designee.

19 (e) The Chancellor of the Florida College System or his or
20 her designee.

21 (f) The Chancellor of the Division of Career and Adult
22 Education of the Department of Education or her designee.

23 (g) The director of the Division of Vocational
24 Rehabilitation of the Department of Education or his or her
25 designation.

26 (h) The director of the Division of Blind Services of the
27 Department of Education or his or her designee.

28 (i) The director of the Agency for Persons with
29 Disabilities or his or her designee.

30 (j) The Secretary of Elderly Affairs or his or her
31 designee.

32 (k) The Secretary of Children and Families or his or her
33 designee.

34 (l) The Secretary of Juvenile Justice or his or her
35 designee.

36 (m) The Secretary of Corrections or his or her designee.

37 (n) The president of Enterprise Florida, Inc., or his or
38 her designee.

39 (o) The president of the Florida Workforce Development
40 Association, Inc., and two of his or her designees from regional



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workforce boards, one of whom must be a representative of a rural regional workforce board.

(p) The statewide director of the Florida Small Business Development Center network or his or her designee.

(q) The president of the Florida Association of Postsecondary Schools and Colleges, Inc., or his or her designee.

(r) The president of the Independent Colleges and Universities of Florida, Inc., or his or her designee.

(2)(a) CareerSource Florida, Inc., shall provide administrative and staff support services to the task force which relate to its functions, including creating workgroups or subcommittees of the task force.

(b) Members of the task force shall serve without compensation but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, Florida Statutes. Per diem and travel expenses incurred by a member of the task force shall be paid from funds budgeted to the state agency or entity that the member represents.

(3)(a) The task force shall develop recommendations for the state's implementation of the federal Workforce Innovation and Opportunity Act, which recommendations shall be presented to and approved by the board of directors of CareerSource Florida, Inc. The recommendations shall include, but are not limited to:

1. A review of current workforce service delivery and recommendations for inclusiveness of programs.

2. A regional planning design.

3. A one-stop service delivery design.

4. The integration of economic development, workforce



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development, and the state's education system.

5. The development of sector strategies and career pathways.

(b) The task force shall submit a report containing the approved recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2015.

(4) CareerSource Florida, Inc., shall incorporate the task force's approved recommendations into the state plan required under the federal Workforce Innovation and Opportunity Act, which, upon approval of the state plan by the board of directors of CareerSource Florida, Inc., shall be submitted to the United States Department of Labor, with a copy of the state plan provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) The task force is abolished June 30, 2016, or at an earlier date as provided by the task force.

Section 61. 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 lines 2 - 16

and insert:

An act relating to workforce services; renaming Workforce Florida, Inc., as CareerSource Florida, Inc.; amending ss. 11.45, 20.60, 216.136, 218.077, 288.047, 288.0656, 288.1252, 288.901, 288.903, 295.22, 320.20, 331.3051, 331.369, 403.973, 409.1451, 413.405, 413.407, 414.045, 414.105, 414.106, 414.295, 414.55,



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99 420.622, 443.091, 443.171, 443.181, 445.003, 445.004,
100 445.006, 445.007, 445.0071, 445.008, 445.009, 445.011,
101 445.014, 445.016, 445.021, 445.022, 445.024, 445.026,
102 445.028, 445.030, 445.033, 445.035, 445.038, 445.045,
103 445.048, 445.051, 445.055, 446.41, 446.50, 1003.491,
104 1003.492, 1003.493, 1003.51, 1003.52, 1004.015,
105 1011.80, and 1011.801, F.S.; conforming provisions to
106 changes made by the act; making technical changes;
107 creating a task force on preparation for the state's
108 implementation of the federal Workforce Innovation and
109 Opportunity Act; providing membership and duties of
110 the task force; requiring the task force to submit a
111 report and recommendations for approval by
112 CareerSource Florida, Inc.; requiring CareerSource
113 Florida, Inc., to submit a specified state plan to the
114 United States Department of Labor; providing for
115 abolishment of the task force; providing an effective
116 date.

By the Committee on Commerce and Tourism

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A bill to be entitled

An act relating to renaming Workforce Florida, Inc.; renaming Workforce Florida, Inc., as CareerSource Florida, Inc.; amending ss. 11.45, 20.60, 216.136, 218.077, 288.047, 288.0656, 288.1252, 288.901, 288.903, 295.22, 320.20, 331.3051, 331.369, 403.973, 409.1451, 413.405, 413.407, 414.045, 414.105, 414.106, 414.295, 414.55, 420.622, 443.091, 443.171, 443.181, 445.003, 445.004, 445.006, 445.007, 445.0071, 445.008, 445.009, 445.011, 445.014, 445.016, 445.021, 445.022, 445.024, 445.026, 445.028, 445.030, 445.033, 445.035, 445.038, 445.045, 445.048, 445.051, 445.055, 446.41, 446.50, 1003.491, 1003.492, 1003.493, 1003.51, 1003.52, 1004.015, 1011.80, and 1011.801, F.S.; conforming provisions to changes made by the act; making technical changes; providing an effective date.

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

Section 1. Paragraph (q) of subsection (3) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

(q) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or the programs or entities created by CareerSource Florida, Inc.

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~~Workforce Florida, Inc.~~, created pursuant to s. 445.004.

Section 2. Paragraphs (a) and (c) of subsection (5) and subsections (6) and (11) of section 20.60, Florida Statutes, are amended to read:

20.60 Department of Economic Opportunity; creation; powers and duties.—

(5) The divisions within the department have specific responsibilities to achieve the duties, responsibilities, and goals of the department. Specifically:

(a) The Division of Strategic Business Development shall:

1. Analyze and evaluate business prospects identified by the Governor, the executive director of the department, and Enterprise Florida, Inc.

2. Administer certain tax refund, tax credit, and grant programs created in law. Notwithstanding any other provision of law, the department may expend interest earned from the investment of program funds deposited in the Grants and Donations Trust Fund to contract for the administration of those programs, or portions of the programs, assigned to the department by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.

3. Develop measurement protocols for the state incentive programs and for the contracted entities which will be used to determine their performance and competitive value to the state. Performance measures, benchmarks, and sanctions must be developed in consultation with the legislative appropriations committees and the appropriate substantive committees, and are subject to the review and approval process provided in s.

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216.177. The approved performance measures, standards, and sanctions shall be included and made a part of the strategic plan for contracts entered into for delivery of programs authorized by this section.

4. Develop a 5-year statewide strategic plan. The strategic plan must include, but need not be limited to:

a. Strategies for the promotion of business formation, expansion, recruitment, and retention through aggressive marketing, international development, and export assistance, which lead to more and better jobs and higher wages for all geographic regions, disadvantaged communities, and populations of the state, including rural areas, minority businesses, and urban core areas.

b. The development of realistic policies and programs to further the economic diversity of the state, its regions, and their associated industrial clusters.

c. Specific provisions for the stimulation of economic development and job creation in rural areas and midsize cities and counties of the state, including strategies for rural marketing and the development of infrastructure in rural areas.

d. Provisions for the promotion of the successful long-term economic development of the state with increased emphasis in market research and information.

e. Plans for the generation of foreign investment in the state which create jobs paying above-average wages and which result in reverse investment in the state, including programs that establish viable overseas markets, assist in meeting the financing requirements of export-ready firms, broaden opportunities for international joint venture relationships, use

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the resources of academic and other institutions, coordinate trade assistance and facilitation services, and facilitate availability of and access to education and training programs that assure requisite skills and competencies necessary to compete successfully in the global marketplace.

f. The identification of business sectors that are of current or future importance to the state's economy and to the state's global business image, and development of specific strategies to promote the development of such sectors.

g. Strategies for talent development necessary in the state to encourage economic development growth, taking into account factors such as the state's talent supply chain, education and training opportunities, and available workforce.

5. Update the strategic plan every 5 years.

6. Involve Enterprise Florida, Inc.; CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~; local governments; the general public; local and regional economic development organizations; other local, state, and federal economic, international, and workforce development entities; the business community; and educational institutions to assist with the strategic plan.

(c) The Division of Workforce Services shall:

1. Prepare and submit a unified budget request for workforce development in accordance with chapter 216 for, and in conjunction with, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and its board.

2. Ensure that the state appropriately administers federal and state workforce funding by administering plans and policies of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, under contract with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

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The operating budget and midyear amendments thereto must be part of such contract.

a. All program and fiscal instructions to regional workforce boards shall emanate from the Department of Economic Opportunity pursuant to plans and policies of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, which shall be responsible for all policy directions to the regional workforce boards.

b. Unless otherwise provided by agreement with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, administrative and personnel policies of the Department of Economic Opportunity shall apply.

3. Implement the state's reemployment assistance program. The Department of Economic Opportunity shall ensure that the state appropriately administers the reemployment assistance program pursuant to state and federal law.

4. Assist in developing the 5-year statewide strategic plan required by this section.

(6) (a) The Department of Economic Opportunity is the administrative agency designated for receipt of federal workforce development grants and other federal funds. The department shall administer the duties and responsibilities assigned by the Governor under each federal grant assigned to the department. The department shall expend each revenue source as provided by federal and state law and as provided in plans developed by and agreements with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ The department may serve as the contract administrator for contracts entered into by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, pursuant to s.

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445.004(5), as directed by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

(b) The Department of Economic Opportunity shall serve as the designated agency for purposes of each federal workforce development grant assigned to it for administration. The department shall carry out the duties assigned to it by the Governor, under the terms and conditions of each grant. The department shall have the level of authority and autonomy necessary to be the designated recipient of each federal grant assigned to it, and shall disburse such grants pursuant to the plans and policies of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ The executive director may, upon delegation from the Governor and pursuant to agreement with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, sign contracts, grants, and other instruments as necessary to execute functions assigned to the department. Notwithstanding other provisions of law, the department shall administer other programs funded by federal or state appropriations, as determined by the Legislature in the General Appropriations Act or other ~~by~~ law.

(11) The department shall establish annual performance standards for Enterprise Florida, Inc., CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the Florida Tourism Industry Marketing Corporation, and Space Florida and report annually on how these performance measures are being met in the annual report required under subsection (10).

Section 3. Paragraph (b) of subsection (7) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.-

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175 (7) WORKFORCE ESTIMATING CONFERENCE.—
 176 (b) The Workforce Estimating Conference shall review data
 177 concerning the local and regional demands for short-term and
 178 long-term employment in High-Skills/High-Wage Program jobs, as
 179 well as other jobs, which data is generated through surveys
 180 conducted as part of the state's Internet-based job matching and
 181 labor market information system authorized under s. 445.011. The
 182 conference shall consider this such data in developing its
 183 forecasts for statewide employment demand, including reviewing
 184 the local and regional data for common trends and conditions
 185 among localities or regions which may warrant inclusion of a
 186 particular occupation on the statewide occupational forecasting
 187 list developed by the conference. Based upon its review of such
 188 survey data, the conference shall also make recommendations
 189 semiannually to CareerSource Florida, Inc. Workforce Florida,
 190 Inc., on additions or deletions to lists of locally targeted
 191 occupations approved by CareerSource Florida, Inc. Workforce
 192 Florida, Inc.

193 Section 4. Subsections (5) and (6) of section 218.077,
 194 Florida Statutes, are amended to read:

195 218.077 Wage and employment benefits requirements by
 196 political subdivisions; restrictions.—

197 ~~(5)(a) There is created the Employer-Sponsored Benefits~~
 198 ~~Study Task Force. Workforce Florida, Inc., shall provide~~
 199 ~~administrative and staff support services relating to the~~
 200 ~~functions of the task force. The task force shall organize by~~
 201 ~~September 1, 2013. The task force shall be composed of 11~~
 202 ~~members. The President of Workforce Florida, Inc., shall serve~~
 203 ~~as a member and chair of the task force. The Speaker of the~~

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204 ~~House of Representatives shall appoint one member who is an~~
 205 ~~economist with a background in business economics. The President~~
 206 ~~of the Senate shall appoint one member who is a physician~~
 207 ~~licensed under chapter 458 or chapter 459 with at least 5 years~~
 208 ~~of experience in the active practice of medicine. In addition,~~
 209 ~~the President of the Senate and the Speaker of the House of~~
 210 ~~Representatives shall each appoint four additional members to~~
 211 ~~the task force. The four appointments from the President of the~~
 212 ~~Senate and the four appointments from the Speaker of the House~~
 213 ~~of Representatives must each include:~~

- 214 1. ~~A member of the Legislature.~~
- 215 2. ~~An owner of a business in this state which employs fewer~~
 216 ~~than 50 people.~~
- 217 3. ~~An owner or representative of a business in this state~~
 218 ~~which employs more than 50 people.~~
- 219 4. ~~A representative of an organization who represents the~~
 220 ~~nonmanagement employees of a business.~~

221 ~~(b) Members of the task force shall serve without~~
 222 ~~compensation, but are entitled to reimbursement for per diem and~~
 223 ~~travel expenses in accordance with s. 112.061.~~

224 ~~(c) The purpose of the task force is to analyze employment~~
 225 ~~benefits and the impact of state preemption of the regulation of~~
 226 ~~such benefits. The task force shall develop a report that~~
 227 ~~includes its findings and recommendations for legislative action~~
 228 ~~regarding the regulation of employment benefits. The task force~~
 229 ~~shall submit the report to the Governor, the President of the~~
 230 ~~Senate, and the Speaker of the House of Representatives by~~
 231 ~~January 15, 2014.~~

232 ~~(d) This subsection is repealed June 30, 2014.~~

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

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(5)(6) This section does not prohibit a federally authorized and recognized tribal government from requiring employment benefits for a person employed within a territory over which the tribe has jurisdiction.

Section 5. Section 288.047, Florida Statutes, is amended to read:

288.047 Quick-response training for economic development.—

(1) The Quick-Response Training Program is created to meet the workforce-skill needs of existing, new, and expanding industries. The program shall be administered by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, in conjunction with Enterprise Florida, Inc., and the Department of Education. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall adopt guidelines for the administration of this program. ~~Workforce Florida, Inc.~~, shall provide technical services, and shall identify businesses that seek services through the program. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may contract with Enterprise Florida, Inc., or administer this program directly, if it is determined that such an arrangement maximizes the amount of the Quick Response grant going to direct services.

(2) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall ensure that instruction funded pursuant to this section is not available through the local community college or school district and that the instruction promotes economic development by providing specialized training to new workers or retraining for current employees to meet changing skill requirements caused by new technology or new product lines and to prevent potential layoffs. Such funds may not be expended to provide training for instruction related to retail businesses or to reimburse

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businesses for trainee wages. Funds made available pursuant to this section may not be expended in connection with the relocation of a business from one community to another ~~community in this state~~ unless CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, determines that, ~~in the absence of~~ ~~without~~ such relocation, the business will move outside this state or ~~determines~~ that the business has a compelling economic rationale for the relocation which creates additional jobs.

(3) Requests for funding ~~may be submitted to~~ ~~through~~ the Quick-Response Training Program ~~by~~ ~~may be produced through~~ ~~inquiries from~~ a specific business or industry, ~~through~~ ~~inquiries from~~ a school district director of career education or community college occupational dean on behalf of a business or industry, or through official state or local economic development efforts. In allocating funds for the purposes of the program, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish criteria for approval of requests for funding and shall select the entity that provides the most efficient, cost-effective instruction meeting such criteria. Program funds may be allocated to a ~~any~~ career center, community college, or state university. Program funds may be allocated to private postsecondary institutions only ~~after~~ ~~upon~~ a review that includes, but is not limited to, accreditation and licensure documentation and prior approval by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ Instruction funded through the program must terminate when participants demonstrate competence at the level specified in the request; however, the grant term may not exceed 24 months. Costs and expenditures for the Quick-Response Training Program must be documented and separated from those

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incurred by the training provider.

(4) For the first 6 months of each fiscal year, CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~ shall set aside 30 percent of the amount appropriated by the Legislature for the Quick-Response Training Program ~~by the Legislature~~ to fund instructional programs for businesses located in an enterprise zone or brownfield area. Any unencumbered funds remaining undisbursed from this set-aside at the end of the 6-month period may be used to provide funding for a ~~any~~ program that qualifies ~~qualifying~~ for funding pursuant to this section.

(5) Prior to the allocation of funds for a ~~any~~ request made pursuant to this section, CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~ shall prepare a grant agreement between the business or industry requesting funds, the educational institution receiving funding through the program, and CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~ Such agreement must include, but is not limited to:

(a) An identification of the personnel necessary to conduct the instructional program, the qualifications of such personnel, and the respective responsibilities of the parties for paying costs associated with the employment of such personnel.

(b) An identification of the estimated length of the instructional program.

(c) An identification of all direct, training-related costs, including tuition and fees, curriculum development, books and classroom materials, and overhead or indirect costs, not to exceed 5 percent of the grant amount.

(d) An identification of special program requirements that are not addressed otherwise in the agreement.

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(e) Permission to access information specific to the wages and performance of participants upon the completion of instruction for evaluation purposes. Information which, if released, would disclose the identity of the person to whom the information pertains or disclose the identity of the person's employer is confidential and exempt from the provisions of s. 119.07(1). The agreement must specify that any evaluations published subsequent to the instruction may not identify the employer or any individual participant.

(6) For the purposes of this section, CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~ may accept grants of money, materials, services, or property of any kind from any agency, corporation, or individual.

(7) In providing instruction pursuant to this section, materials that relate to methods of manufacture or production, potential trade secrets, business transactions, or proprietary information received, produced, ascertained, or discovered by employees of the respective departments, district school boards, community college district boards of trustees, or other personnel employed for the purposes of this section is confidential and exempt from the provisions of s. 119.07(1). The state may seek copyright protection for ~~all~~ instructional materials and ancillary written documents developed wholly or partially with state funds as a result of instruction provided pursuant to this section, except for materials that are confidential and exempt from the provisions of s. 119.07(1).

(8) ~~The There is created a~~ Quick-Response Training Program is created to provide assistance to ~~for~~ participants in the welfare transition program. CareerSource Florida, Inc. ~~Workforce~~

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Florida, Inc., may award quick-response training grants and develop applicable guidelines for the training of participants in the welfare transition program. In addition to a local economic development organization, grants must be endorsed by the applicable regional workforce board.

(a) Training funded pursuant to this subsection may not exceed 12 months, and may be provided by the local community college, school district, regional workforce board, or the business employing the participant, including on-the-job training. Training will provide entry-level skills to new workers, including those employed in retail, who are participants in the welfare transition program.

(b) Participants trained pursuant to this subsection must be employed at a job paying at least ~~wage not less than~~ \$6 per hour.

(c) Funds made available pursuant to this subsection may be expended in connection with the relocation of a business from one community to another ~~community~~ if approved by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

(9) Notwithstanding any other provision of law, eligible matching contributions received under this section from the Quick-Response Training Program ~~under this section~~ may be counted toward the private sector support of Enterprise Florida, Inc., under s. 288.904.

(10) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and Enterprise Florida, Inc., shall coordinate and cooperate ~~ensure maximum coordination and cooperation~~ in administering this section so, in such a manner that any division of responsibility between the two organizations which relates to

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marketing or administering the Quick-Response Training Program is not apparent to a business that inquires about or applies for funding under this section. A business shall be provided with a single point of contact for information and assistance.

Section 6. Paragraph (a) of subsection (6) of section 288.0656, Florida Statutes, is amended to read:

288.0656 Rural Economic Development Initiative.—

(6) (a) By August 1 of each year, the head of each of the following agencies and organizations shall designate a deputy secretary or higher-level staff person from within the agency or organization to serve as the REDI representative for the agency or organization:

1. The Department of Transportation.
2. The Department of Environmental Protection.
3. The Department of Agriculture and Consumer Services.
4. The Department of State.
5. The Department of Health.
6. The Department of Children and Families.
7. The Department of Corrections.
8. The Department of Education.
9. The Department of Juvenile Justice.
10. The Fish and Wildlife Conservation Commission.
11. Each water management district.
12. Enterprise Florida, Inc.
13. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~
14. VISIT Florida.
15. The Florida Regional Planning Council Association.
16. The Agency for Health Care Administration.
17. The Institute of Food and Agricultural Sciences (IFAS).

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An alternate for each designee shall also be chosen, and the names of the designees and alternates shall be sent to the executive director of the department.

Section 7. Paragraph (e) of subsection (3) of section 288.1252, Florida Statutes, is amended to read:

288.1252 Florida Film and Entertainment Advisory Council; creation; purpose; membership; powers and duties.—

(3) MEMBERSHIP.—

(e) In addition to the 17 appointed members of the council, ~~one~~ A representative from each of Enterprise Florida, Inc., CareerSource Florida, Inc. a representative of Workforce Florida, Inc., and ~~a representative of~~ VISIT Florida shall serve as ex officio, nonvoting members of the council, ~~and shall be in addition to the 17 appointed members of the council.~~

Section 8. Paragraph (a) of subsection (5) of section 288.901, Florida Statutes, is amended to read:

288.901 Enterprise Florida, Inc.—

(5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

(a) In addition to the Governor or his or her ~~the Governor's~~ designee, the board of directors shall consist of the following appointed members:

1. The Commissioner of Education or his or her ~~the commissioner's~~ designee.

2. The Chief Financial Officer or his or her designee.

3. The Attorney General or his or her designee.

4. The Commissioner of Agriculture or his or her designee.

5. The chairperson of the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

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6. The Secretary of State or his or her ~~the secretary's~~ designee.

7. Twelve members from the private sector, six of whom shall be appointed by the Governor, three of whom shall be appointed by the President of the Senate, and three of whom shall be appointed by the Speaker of the House of Representatives. Members appointed by the Governor are subject to Senate confirmation.

Section 9. Subsection (6) of section 288.903, Florida Statutes, is amended to read:

288.903 Duties of Enterprise Florida, Inc.—Enterprise Florida, Inc., shall have the following duties:

(6) In coordination with CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~ identify education and training programs that will ensure that Florida businesses have access to a skilled and competent workforce necessary to compete successfully in the domestic and global marketplace.

Section 10. Paragraph (d) of subsection (3) of section 295.22, Florida Statutes, is amended to read:

295.22 Veterans Employment and Training Services Program.—

(3) ADMINISTRATION.—Florida Is For Veterans, Inc., shall administer the Veterans Employment and Training Services Program and perform all of the following functions:

(d) Create a grant program to provide funding to assist veterans in meeting the workforce-skill needs of businesses seeking to hire veterans, establish criteria for approval of requests for funding, and maximize the use of funding for this program. Grant funds may be used only in the absence of available veteran-specific federally funded programs. Grants may

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fund specialized training specific to a particular business.

1. Grant funds may be allocated to any training provider selected by the business, including a career center, a Florida College System institution, a state university, or an in-house training provider of the business. If grant funds are used to provide a technical certificate, a licensure, or a degree, funds may be allocated only upon a review that includes, but is not limited to, documentation of accreditation and licensure ~~documentation~~. Instruction funded through the program terminates ~~must terminate~~ when participants demonstrate competence at the level specified in the request ~~but, however, the grant term~~ may not exceed 48 months. Preference shall be given to target industry businesses, as defined in s. 288.106, and to businesses in the defense supply, cloud virtualization, or commercial aviation manufacturing industries.

2. Costs and expenditures for the grant program must be documented and separated from those incurred by the training provider. Costs and expenditures shall be limited to \$8,000 per veteran trainee. Eligible costs and expenditures include:

- a. Tuition and fees.
- b. Curriculum development.
- c. Books and classroom materials.
- d. Rental fees for facilities at public colleges and universities, including virtual training labs.
- e. Overhead or indirect costs not to exceed 5 percent of the grant amount.

3. Before funds are allocated for a request pursuant to this section, the corporation shall prepare a grant agreement between the business requesting funds, the educational

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institution or training provider receiving funding through the program, and the corporation. Such agreement must include, but need not be limited to:

a. Identification of the personnel necessary to conduct the instructional program, the qualifications of such personnel, and the respective responsibilities of the parties for paying costs associated with the employment of such personnel.

b. Identification of the match provided by the business, including cash and in-kind contributions, equal to at least 50 percent of the total grant amount.

c. Identification of the estimated duration of the instructional program.

d. Identification of all direct, training-related costs.

e. Identification of special program requirements that are not otherwise addressed in the agreement.

f. Permission to access aggregate information specific to the wages and performance of participants upon the completion of instruction for evaluation purposes. The agreement must specify that any evaluation published subsequent to the instruction may not identify the employer or any individual participant.

4. A business may receive a grant under the Quick-Response Training Program created under s. 288.047 and a grant under this section for the same veteran trainee. If a business receives funds under both programs, one grant agreement may be entered into with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, as the grant administrator.

Section 11. Subsection (4) of section 320.20, Florida Statutes, is amended to read:

320.20 Disposition of license tax moneys.—The revenue

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523 derived from the registration of motor vehicles, including any
524 delinquent fees and excluding those revenues collected and
525 distributed under the provisions of s. 320.081, must be
526 distributed monthly, as collected, as follows:

527 (4) Notwithstanding any other provision of law except
528 subsections (1), (2), and (3), \$10 million shall be deposited
529 annually into the State Transportation Trust Fund solely for the
530 purposes of funding the Florida Seaport Transportation and
531 Economic Development Program as provided in chapter 311 and for
532 funding seaport intermodal access projects of statewide
533 significance as provided in s. 341.053. Such revenues shall be
534 distributed to any port listed in s. 311.09(1), to be used for
535 funding projects as follows:

536 (a) For any seaport intermodal access projects that are
537 identified in the 1997-1998 Tentative Work Program of the
538 Department of Transportation, up to the amounts needed to offset
539 the funding requirements of this section.

540 (b) For seaport intermodal access projects as described in
541 s. 341.053(6) which are identified in the 5-year Florida Seaport
542 Mission Plan as provided in s. 311.09(3). Funding for such
543 projects shall be on a matching basis as mutually determined by
544 the Florida Seaport Transportation and Economic Development
545 Council and the Department of Transportation if a minimum of 25
546 percent of total project funds come from any port funds, local
547 funds, private funds, or specifically earmarked federal funds.

548 (c) On a 50-50 matching basis for projects as described in
549 s. 311.07(3)(b).

550 (d) For seaport intermodal access projects that involve the
551 dredging or deepening of channels, turning basins, or harbors;

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552 or the rehabilitation of wharves, docks, or similar structures.
553 Funding for such projects requires a 25 percent match of the
554 funds received pursuant to this subsection. Matching funds must
555 come from ~~any~~ port funds, federal funds, local funds, or private
556 funds.

557
558 Such revenues may be assigned, pledged, or set aside as a trust
559 for the payment of principal or interest on bonds, tax
560 anticipation certificates, or other form of indebtedness issued
561 by an individual port or appropriate local government having
562 jurisdiction thereof, or collectively by interlocal agreement
563 among any of the ports, or used to purchase credit support to
564 permit such borrowings. However, such debt is not a general
565 obligation of the state. This state covenants with holders of
566 such revenue bonds or other instruments of indebtedness issued
567 hereunder that it will not repeal, ~~or~~ impair, or amend this
568 subsection in a any manner that will materially and adversely
569 affect the rights of holders while so long as bonds authorized
570 by this subsection remain ~~are~~ outstanding. ~~Any~~ Revenues that are
571 not pledged to the repayment of bonds as authorized by this
572 section may be used for purposes authorized under the Florida
573 Seaport Transportation and Economic Development Program. This
574 revenue source is in addition to any amounts provided for and
575 appropriated in accordance with s. 311.07 and subsection (3).
576 The Florida Seaport Transportation and Economic Development
577 Council shall approve distribution of funds to ports for
578 projects that have been approved pursuant to s. 311.09(5)-(8),
579 or for seaport intermodal access projects identified in the 5-
580 year Florida Seaport Mission Plan as provided in s. 311.09(3)

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581 and mutually agreed upon by the Florida Seaport Transportation
 582 and Economic Development Council and the Department of
 583 Transportation. All contracts for actual construction of
 584 projects authorized by this subsection must include a provision
 585 encouraging employment of participants in the welfare transition
 586 program. The goal for such employment is 25 percent of all new
 587 employees employed specifically for the project, unless the
 588 Department of Transportation and the Florida Seaport
 589 Transportation and Economic Development Council demonstrate that
 590 such a requirement would severely hamper the successful
 591 completion of the project. In such an instance, CareerSource
 592 Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish an
 593 appropriate percentage of employees who are participants in the
 594 welfare transition program. The council and the Department of
 595 Transportation may perform such acts as are required to
 596 facilitate and implement the provisions of this subsection. To
 597 better enable the ports to cooperate to their mutual advantage,
 598 the governing body of each port may exercise powers provided to
 599 municipalities or counties in s. 163.01(7)(d) subject to the
 600 provisions of chapter 311 and special acts, if any, pertaining
 601 to a port. The use of funds provided pursuant to this subsection
 602 is limited to eligible projects listed in this subsection. The
 603 revenues available under this subsection may not be pledged to
 604 the payment of any bonds other than the Florida Ports Financing
 605 Commission Series 1996 and Series 1999 Bonds currently
 606 outstanding; however, such revenues may be pledged to secure
 607 payment of refunding bonds to refinance the Florida Ports
 608 Financing Commission Series 1996 and Series 1999 Bonds.
 609 Refunding bonds secured by revenues available under this

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610 subsection may not be issued with a final maturity later than
 611 the final maturity of the Florida Ports Financing Commission
 612 Series 1996 and Series 1999 Bonds ~~and may not or which~~ provide
 613 for higher debt service in any year than is currently payable on
 614 such bonds. Any revenue bonds or other indebtedness issued after
 615 July 1, 2000, other than refunding bonds shall be issued by the
 616 Division of Bond Finance at the request of the Department of
 617 Transportation pursuant to the State Bond Act.
 618 Section 12. Subsections (2) and (9) of section 331.3051,
 619 Florida Statutes, are amended to read:
 620 331.3051 Duties of Space Florida.—Space Florida shall:
 621 (2) Enter into agreement with the Department of Education,
 622 the Department of Transportation, Enterprise Florida, Inc., and
 623 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, for the
 624 purpose of implementing this act.
 625 (9) Carry out its responsibility for workforce development
 626 by coordinating with CareerSource Florida, Inc. ~~Workforce~~
 627 ~~Florida, Inc.~~, community colleges, colleges, public and private
 628 universities, and other public and private partners to develop a
 629 plan to retain, train, and retrain workers, from entry-level
 630 skills training through to technician-level, and 4-year degrees
 631 and higher, with the skills most relevant to aerospace
 632 employers.
 633 Section 13. Subsections (2), (4), and (5) of section
 634 331.369, Florida Statutes, are amended to read:
 635 331.369 Space Industry Workforce Initiative.—
 636 (2) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~,
 637 shall coordinate development of a Space Industry Workforce
 638 Initiative in partnership with Space Florida, public and private

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universities, community colleges, and other training providers approved by the board. The purpose of the initiative is to use or revise existing programs and to develop innovative new programs to address the workforce needs of the aerospace industry.

(4) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, with the assistance of Space Florida, shall convene representatives from the aerospace industry to identify the priority training and education needs of the industry and to appoint a team to design programs to meet the priority needs.

(5) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, as part of its statutorily prescribed annual report to the Legislature, shall provide recommendations for policies, programs, and funding to enhance the workforce needs of the aerospace industry.

Section 14. Paragraph (c) of subsection (3) of section 403.973, Florida Statutes, is amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)

(c) At the request of a county or municipal government, the Department of Economic Opportunity or a Quick Permitting County may certify projects located in counties where the ratio of new jobs per participant in the welfare transition program, as determined by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, is less than one or otherwise critical, as eligible for the expedited permitting process. Such projects must meet the numerical ~~job creation~~ criteria for job creation specified in of this subsection, but the jobs created by the project do not have

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to be high-wage jobs that diversify the state's economy.

Section 15. Paragraph (c) of subsection (7) of section 409.1451, Florida Statutes, is amended to read:

409.1451 The Road-to-Independence Program.—

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the provisions of s. 39.6251 and the Road-to-Independence Program. The advisory council shall function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the services designed to enable a young adult to live independently.

(c) Members of the advisory council shall be appointed by the secretary of the department. The membership of the advisory council must include, at a minimum, representatives from the headquarters and regional offices of the Department of Children and Families, community-based care lead agencies, the Department of Juvenile Justice, the Department of Economic Opportunity, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the Statewide Guardian Ad Litem Office, foster parents, recipients of services and funding through the Road-to-Independence Program, and advocates for children in care. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.

Section 16. Paragraph (k) of subsection (1) and subsection

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(9) of section 413.405, Florida Statutes, are amended to read:

413.405 Florida Rehabilitation Council.—There is created the Florida Rehabilitation Council to assist the division in the planning and development of statewide rehabilitation programs and services, to recommend improvements to such programs and services, and to perform the functions listed in this section.

(1) The council shall be composed of:

(k) At least one representative of the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

(9) In addition to the other functions specified in this section, the council shall, after consulting with the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.:~~

(a) Review, analyze, and advise the division regarding the performance of the responsibilities of the division under Title I of the act, particularly responsibilities relating to:

1. Eligibility, including order of selection.

2. The extent, scope, and effectiveness of services provided.

3. Functions performed by state agencies which ~~that~~ affect or potentially affect the ability of individuals with disabilities to achieve in achieving employment outcomes under Title I.

(b) In partnership with the division:

1. Develop, agree to, and review state goals and priorities in accordance with 34 C.F.R. s. 361.29(c); and

2. Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education

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in accordance with 34 C.F.R. s. 361.29(e).

(c) Advise the department and the division and assist in the preparation of the state plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by Title I.

(d) To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

1. The functions performed by state agencies and other public and private entities responsible for performing functions for individuals who have disabilities.

2. Vocational rehabilitation services:

a. Provided or paid for from funds made available under the act or through other public or private sources.

b. Provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who have disabilities.

3. The employment outcomes achieved by eligible individuals receiving services under this part, including the availability of health or other employment benefits in connection with those employment outcomes.

(e) Prepare and submit an annual report on the status of vocational rehabilitation programs in the state to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education and make the report available to the public.

(f) Coordinate with other councils within Florida, including the Florida Independent Living Council, the advisory panel established under s. 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. s. 1412(a)(21), the State

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Planning Council described in s. 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s. 15024, the state mental health planning council established under s. 1914 of the Public Health Service Act, 42 U.S.C. s. 300x-3, and the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

(g) Advise the department and division and provide for coordination and the establishment of working relationships among the department, the division, the Florida Independent Living Council, and centers for independent living in the state.

(h) Perform other functions that are consistent with the duties and responsibilities of the council under this section.

Section 17. Paragraph (a) of subsection (1) of section 413.407, Florida Statutes, is amended to read:

413.407 Assistive Technology Advisory Council.—There is created the Assistive Technology Advisory Council, responsible for ensuring consumer involvement in the creation, application, and distribution of technology-related assistance to and for persons who have disabilities. The council shall fulfill its responsibilities through statewide policy development, both state and federal legislative initiatives, advocacy at both the state and federal level, planning of statewide resource allocations, policy-level management, reviews of both consumer responsiveness and the adequacy of program service delivery, and by performing the functions listed in this section.

(1)(a) The council shall be composed of:

1. Individuals who have disabilities and who are assistive technology consumers or family members or guardians of those individuals.

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2. Representatives of consumer organizations concerned with assistive technology.

3. Representatives of business and industry, including the insurance industry, concerned with assistive technology.

4. A representative of the Division of Vocational Rehabilitation.

5. A representative of the Division of Blind Services.

6. A representative of the Florida Independent Living Council.

7. A representative of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

8. A representative of the Department of Education.

9. Representatives of other state agencies that provide or coordinate services for persons with disabilities.

Total membership on the council may ~~shall~~ not exceed 27 at any one time. A majority of the members shall be appointed in accordance with subparagraph 1.

Section 18. Section 414.045, Florida Statutes, is amended to read:

414.045 Cash assistance program.—Cash assistance families include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash assistance through a program defined as a separate state program.

(1) For reporting purposes, families receiving cash

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assistance shall be grouped into the following categories. The department may develop additional groupings in order to comply with federal reporting requirements, to comply with the data-reporting needs of the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or to better inform the public of program progress.

(a) *Work-eligible cases.*—Work-eligible cases shall include:

1. Families containing an adult or a teen head of household, as defined by federal law. These cases are generally subject to the work activity requirements provided in s. 445.024 and the time limitations on benefits provided in s. 414.105.

2. Families with a parent where the parent's needs have been removed from the case due to sanction or disqualification shall be considered work-eligible cases to the extent that such cases are considered in the calculation of federal participation rates or would be counted in such calculation in future months.

3. Families participating in transition assistance programs.

4. Families otherwise eligible for temporary cash assistance which ~~that~~ receive diversion services, a severance payment, or participate in the relocation program.

(b) *Child-only cases.*—Child-only cases include cases that do not have an adult or teen head of household as defined in federal law. Such cases include:

1. Children in the care of caretaker relatives, if ~~where~~ the caretaker relatives choose to have their needs excluded in the calculation of the amount of cash assistance.

2. Families in the Relative Caregiver Program as provided in s. 39.5085.

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3. Families in which the only parent in a single-parent family or both parents in a two-parent family receive supplemental security income (SSI) benefits under Title XVI of the Social Security Act, as amended. To the extent permitted by federal law, individuals receiving SSI shall be excluded as household members in determining the amount of cash assistance, and such cases shall not be considered families containing an adult. Parents or caretaker relatives who are excluded from the cash assistance group due to receipt of SSI may choose to participate in work activities. An individual whose ability to participate in work activities is limited who volunteers to participate in work activities ~~activity~~ but whose ~~ability to participate in work activities is limited~~ shall be assigned to work activities consistent with such limitations. An individual who volunteers to participate in a work activity may receive child care or support services consistent with such participation.

4. Families in which ~~where~~ the only parent in a single-parent family or both parents in a two-parent family are not eligible for cash assistance due to immigration status or other limitation of federal law. To the extent required by federal law, such cases shall not be considered families containing an adult.

5. To the extent permitted by federal law and subject to appropriations, special needs children who have been adopted pursuant to s. 409.166 and whose adopting family qualifies as a needy family under the state program for temporary assistance for needy families. Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family

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871 shall be considered a needy family if:

872 a. The family is determined by the department to have an
873 income below 200 percent of the federal poverty level;

874 b. The family meets the requirements of s. 414.095(2) and
875 (3) related to residence, citizenship, or eligible noncitizen
876 status; and

877 c. The family provides any information that may be
878 necessary to meet federal reporting requirements specified under
879 Part A of Title IV of the Social Security Act.

880 Families described in subparagraph 1., subparagraph 2., or
881 subparagraph 3. may receive child care assistance or other
882 supports or services so that the children may continue to be
883 cared for in their own homes or in the homes of relatives. Such
884 assistance or services may be funded from the temporary
885 assistance for needy families block grant to the extent
886 permitted under federal law and to the extent funds have been
887 provided in the General Appropriations Act.

888 (2) Oversight by the board of directors of CareerSource
889 Florida, Inc. ~~Workforce Florida, Inc.~~, and the service delivery
890 and financial planning responsibilities of the regional
891 workforce boards ~~shall~~ apply to the families defined as work-
892 eligible cases in paragraph (1)(a). The department shall be
893 responsible for program administration related to families in
894 groups defined in paragraph (1)(b), and the department shall
895 coordinate such administration with the board of directors of
896 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, to the
897 extent needed for operation of the program.

898 Section 19. Subsections (1) and (3) of section 414.105,
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900 Florida Statutes, are amended to read:

901 414.105 Time limitations of temporary cash assistance.—
902 Except as otherwise provided in this section, an applicant or
903 current participant shall receive temporary cash assistance for
904 no more than a lifetime cumulative total of 48 months, unless
905 otherwise provided by law.

906 (1) Hardship exemptions from ~~to~~ the time limitations
907 provided in this section may not exceed ~~shall be limited to~~ 20
908 percent of the average monthly caseload, as determined by the
909 department in cooperation with CareerSource Florida, Inc.
910 ~~Workforce Florida, Inc.~~ Criteria for hardship exemptions
911 include:

912 (a) Diligent participation in activities, combined with
913 inability to obtain employment.

914 (b) Diligent participation in activities, combined with
915 extraordinary barriers to employment, including the conditions
916 which may result in an exemption to work requirements.

917 (c) Significant barriers to employment, combined with a
918 need for additional time.

919 (d) Diligent participation in activities and a need by teen
920 parents for an exemption in order to have 24 months of
921 eligibility beyond receipt of the high school diploma or
922 equivalent.

923 (e) A recommendation of extension for a minor child of a
924 participating family that has reached the end of the eligibility
925 period for temporary cash assistance. The recommendation must be
926 the result of a review that ~~which~~ determines that the
927 termination of the child's temporary cash assistance would be
928 likely to result in the child being placed into emergency

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shelter or foster care.

(3) The department, in cooperation with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish a procedure for approving hardship exemptions and for reviewing hardship cases at least once every 2 years. Regional workforce boards may assist in making these determinations.

Section 20. Section 414.106, Florida Statutes, is amended to read:

414.106 Exemption from public meetings law.—That portion of a meeting held by the department, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or a regional workforce board or local committee created pursuant to s. 445.007 at which personal identifying information contained in records relating to temporary cash assistance is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution if the information identifies a participant, a participant's family, or a participant's family or household member.

Section 21. Subsection (1) of section 414.295, Florida Statutes, is amended to read:

414.295 Temporary cash assistance programs; public records exemption.—

(1) Personal identifying information of a temporary cash assistance program participant, a participant's family, or a participant's family or household member, except for information identifying a parent who does not live in the same home as the child, which is held by the department, the Office of Early Learning, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the Department of Health, the Department of Revenue, the Department of Education, or a regional workforce board or local

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committee created pursuant to s. 445.007 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such confidential and exempt information may be released for purposes directly connected with:

(a) The administration of the temporary assistance for needy families plan under Title IV-A of the Social Security Act, as amended, by the department, the Office of Early Learning, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the Department of Military Affairs, the Department of Health, the Department of Revenue, the Department of Education, a regional workforce board or local committee created pursuant to s. 445.007, or a school district.

(b) The administration of the state's plan or program approved under Title IV-B, Title IV-D, or Title IV-E of the Social Security Act, as amended, or under Title I, Title X, Title XIV, Title XVI, Title XIX, Title XX, or Title XXI of the Social Security Act, as amended.

(c) An ~~Any~~ investigation, prosecution, or ~~any~~ criminal, civil, or administrative proceeding conducted in connection with the administration of any of the plans or programs specified in paragraph (a) or paragraph (b) by a federal, state, or local governmental entity, upon request by that entity, if ~~when~~ such request is made pursuant to the proper exercise of that entity's duties and responsibilities.

(d) The administration of any other state, federal, or federally assisted program that provides assistance or services on the basis of need, in cash or in kind, directly to a participant.

(e) An ~~Any~~ audit or similar activity, such as a review of

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987 expenditure reports or financial review, conducted in connection
 988 with the administration of ~~any of the~~ plans or programs
 989 specified in paragraph (a) or paragraph (b) by a governmental
 990 entity authorized by law to conduct such audit or activity.

991 (f) The administration of the reemployment assistance
 992 program.

993 (g) The reporting to the appropriate agency or official of
 994 information about known or suspected instances of physical or
 995 mental injury, sexual abuse or exploitation, or negligent
 996 treatment or maltreatment of a child or elderly person receiving
 997 assistance, if circumstances indicate that the health or welfare
 998 of the child or elderly person is threatened.

999 (h) The administration of services to elderly persons under
 1000 ss. 430.601-430.606.

1001 Section 22. Section 414.55, Florida Statutes, is amended to
 1002 read:

1003 414.55 Implementation of community work program.—The
 1004 Governor shall minimize the liability of the state by opting out
 1005 of the special provision related to community work, as described
 1006 in s. 402(a)(1)(B)(iv) of the Social Security Act, as amended by
 1007 Pub. L. No. 104-193. The department and CareerSource Florida,
 1008 Inc. Workforce Florida, Inc., shall implement the community work
 1009 program in accordance with s. 445.024.

1010 Section 23. Subsection (2) of section 420.622, Florida
 1011 Statutes, is amended to read:

1012 420.622 State Office on Homelessness; Council on
 1013 Homelessness.—

1014 (2) The Council on Homelessness is created to consist of 17
 1015 representatives ~~a 17-member council~~ of public and private

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1016 ~~agencies~~ agency representatives who shall develop policy and
 1017 advise the State Office on Homelessness. The council members
 1018 shall be: the Secretary of Children and Families, or his or her
 1019 designee; the executive director of the Department of Economic
 1020 Opportunity, or his or her designee, who shall ~~to~~ advise the
 1021 council on issues related to rural development; the State
 1022 Surgeon General, or his or her designee; the Executive Director
 1023 of Veterans' Affairs, or his or her designee; the Secretary of
 1024 Corrections, or his or her designee; the Secretary of Health
 1025 Care Administration, or his or her designee; the Commissioner of
 1026 Education, or his or her designee; the Director of CareerSource
 1027 Florida, Inc. Workforce Florida, Inc., or his or her designee;
 1028 one representative of the Florida Association of Counties; one
 1029 representative of ~~from~~ the Florida League of Cities; one
 1030 representative of the Florida Supportive Housing Coalition; the
 1031 Executive Director of the Florida Housing Finance Corporation,
 1032 or his or her designee; one representative of the Florida
 1033 Coalition for the Homeless; and four members appointed by the
 1034 Governor. The council members shall be nonpaid volunteers
 1035 ~~volunteer, nonpaid persons~~ and shall be reimbursed only for
 1036 travel expenses ~~only~~. The appointed members of the council shall
 1037 be appointed to staggered 2-year terms, and the council shall
 1038 meet at least four times per year. The importance of minority,
 1039 gender, and geographic representation shall ~~must~~ be considered
 1040 in when appointing members to the council.

1041 Section 24. Paragraph (c) of subsection (1) of section
 1042 443.091, Florida Statutes, is amended to read:

1043 443.091 Benefit eligibility conditions.—

1044 (1) An unemployed individual is eligible to receive

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benefits for any week only if the Department of Economic Opportunity finds that:

(c) To make continued claims for benefits, she or he is reporting to the department in accordance with this paragraph and department rules. Department rules may not conflict with s. 443.111(1)(b), which requires that each claimant continue to report regardless of any pending appeal relating to her or his eligibility or disqualification for benefits.

1. For each week of unemployment claimed, each report must, at a minimum, include the name, address, and telephone number of each prospective employer contacted, or the date the claimant reported to a one-stop career center, pursuant to paragraph (d).

2. The department shall ~~must~~ offer an online assessment aimed at identifying ~~that serves to identify~~ an individual's skills, abilities, and career aptitude. The skills assessment must be voluntary, and the department shall ~~must~~ allow a claimant to choose whether to take the skills assessment. The online assessment shall be made available to any person seeking services from a regional workforce board or a one-stop career center.

a. If the claimant chooses to take the online assessment, the outcome of the assessment shall ~~must~~ be made available to the claimant, regional workforce board, and one-stop career center. The department, workforce board, or one-stop career center shall use the assessment to develop a plan for referring individuals to training and employment opportunities. Aggregate data on assessment outcomes may be made available to CareerSource Florida, Inc. Workforce Florida, Inc., and Enterprise Florida, Inc., for use in the development of policies

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related to education and training programs that will ensure that businesses in this state have access to a skilled and competent workforce.

b. Individuals shall be informed of and offered services through the one-stop delivery system, including career counseling, the provision of skill match and job market information, and skills upgrade and other training opportunities, and shall be encouraged to participate in such services at no cost to the individuals. The department shall coordinate with CareerSource Florida, Inc. Workforce Florida, Inc., the workforce boards, and the one-stop career centers to identify, develop, and use best practices for improving the skills of individuals who choose to participate in skills upgrade and other training opportunities. The department may contract with an entity to create the online assessment in accordance with the competitive bidding requirements in s. 287.057. The online assessment must work seamlessly with the Reemployment Assistance Claims and Benefits Information System.

Section 25. Subsections (1) and (4) of section 443.171, Florida Statutes, are amended to read:

443.171 Department of Economic Opportunity and commission; powers and duties; records and reports; proceedings; state-federal cooperation.—

(1) POWERS AND DUTIES.—The Department of Economic Opportunity shall administer this chapter. The department may employ ~~these~~ persons, make expenditures, require reports, conduct investigations, and take other action necessary or suitable to administer this chapter. The department shall annually submit information to CareerSource Florida, Inc.

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1103 ~~Workforce Florida, Inc.~~, covering the administration and
 1104 operation of this chapter during the preceding calendar year for
 1105 inclusion in the strategic plan under s. 445.006 and may make
 1106 recommendations for amendment to this chapter.

1107 (4) EMPLOYMENT STABILIZATION.—The Department of Economic
 1108 Opportunity, under the direction of CareerSource Florida, Inc.
 1109 ~~Workforce Florida, Inc.~~, shall take all appropriate steps to
 1110 reduce and prevent unemployment; to encourage and assist in the
 1111 adoption of practical methods of career training, retraining,
 1112 and career guidance; to investigate, recommend, advise, and
 1113 assist municipalities, counties, school districts, and the state
 1114 in the establishment and operation, by municipalities, counties,
 1115 school districts, and the state, of reserves for public works to
 1116 be used in times of business depression and unemployment; to
 1117 promote the reemployment of ~~the~~ unemployed workers throughout
 1118 the state in every other way that may be feasible; to refer a
 1119 any claimant entitled to extended benefits to suitable work that
 1120 ~~which~~ meets the criteria of this chapter; and, to these ends, to
 1121 carry on and publish the results of investigations and research
 1122 studies.

1123 Section 26. Subsection (1) of section 443.181, Florida
 1124 Statutes, is amended to read:

1125 443.181 Public employment service.—

1126 (1) The one-stop delivery system established under s.
 1127 445.009 is this state's public employment service as part of the
 1128 national system of public employment offices established under
 1129 29 U.S.C. s. 49. The Department of Economic Opportunity, under
 1130 policy direction from CareerSource Florida, Inc. ~~Workforce~~
 1131 ~~Florida, Inc.~~, shall cooperate with any official or agency of

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1132 the United States having power or duties under 29 U.S.C. ss. 49-
 1133 491-1 and shall perform those duties necessary to secure to this
 1134 state the funds provided under federal law for the promotion and
 1135 maintenance of the state's public employment service. In
 1136 accordance with 29 U.S.C. s. 49c, this state accepts 29 U.S.C.
 1137 ss. 49-491-1. The department is designated the state agency
 1138 responsible for cooperating with the United States Secretary of
 1139 Labor under 29 U.S.C. s. 49c. The department shall appoint
 1140 sufficient employees to administer this section. The department
 1141 may cooperate with or enter into agreements with the Railroad
 1142 Retirement Board for the establishment, maintenance, and use of
 1143 one-stop career centers.

1144 Section 27. Section 445.003, Florida Statutes, is amended
 1145 to read:

1146 445.003 Implementation of the federal Workforce Investment
 1147 Act of 1998.—

1148 (1) WORKFORCE INVESTMENT ACT PRINCIPLES.—The state's
 1149 approach to implementing the federal Workforce Investment Act of
 1150 1998, Pub. L. No. 105-220, should have six elements:

1151 (a) *Streamlining Services*.—Florida's employment and
 1152 training programs must be coordinated and consolidated at
 1153 locally managed one-stop delivery system centers.

1154 (b) *Empowering Individuals*.—Eligible participants will make
 1155 informed decisions, choosing the qualified training program that
 1156 best meets their needs.

1157 (c) *Universal Access*.—Through a one-stop delivery system,
 1158 every Floridian will have access to employment services.

1159 (d) *Increased Accountability*.—The state, localities, and
 1160 training providers will be held accountable for their

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performance.

(e) *Local Board and Private Sector Leadership.*—Local boards will focus on strategic planning, policy development, and oversight of the local system, choosing local managers to direct the operational details of their one-stop delivery system centers.

(f) *Local Flexibility and Integration.*—Localities will have exceptional flexibility to build on existing reforms. Unified planning will free local groups from conflicting micromanagement, while waivers and WorkFlex will allow local innovations.

(2) FIVE-YEAR PLAN.—CareerSource Florida, Inc. Workforce Florida, Inc., shall prepare and submit a 5-year plan, which must include ~~includes~~ secondary career education, to fulfill the early implementation requirements of Pub. L. No. 105-220 and applicable state statutes. Mandatory and optional federal partners ~~and optional federal partners~~ shall be fully involved in designing the plan's one-stop delivery system strategy. The plan shall ~~detail a process to~~ clearly define each program's statewide duties and role relating to the system. Any optional federal partner may immediately choose to fully integrate its program's plan with this plan, which shall, notwithstanding any other state provisions, fulfill all their state planning and reporting requirements as they relate to the one-stop delivery system. The plan must ~~shall~~ detail a process that would fully integrate all federally mandated and optional partners by the second year of the plan. All optional federal program partners in the planning process shall be mandatory participants in the second year of the plan.

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(3) FUNDING.—

(a) Title I, Workforce Investment Act of 1998 funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be expended based on the 5-year plan of CareerSource Florida, Inc. Workforce Florida, Inc. The plan shall outline and direct the method used to administer and coordinate various funds and programs that are operated by various agencies. The following provisions ~~shall~~ ~~also~~ apply to these funds:

1. At least 50 percent of the Title I funds for Adults and Dislocated Workers which ~~that~~ are passed through to regional workforce boards shall be allocated to and expended on Individual Training Accounts unless a regional workforce board obtains a waiver from CareerSource Florida, Inc. Workforce Florida, Inc. Tuition, books, and fees of training providers and other training services prescribed and authorized by the Workforce Investment Act of 1998 qualify as Individual Training Account expenditures.

2. Fifteen percent of Title I funding shall be retained at the state level and ~~shall be~~ dedicated to state administration and shall be used to design, develop, induce, and fund innovative Individual Training Account pilots, demonstrations, and programs. Of such funds retained at the state level, \$2 million shall be reserved for the Incumbent Worker Training Program, created under subparagraph 3. Eligible state administration costs include the costs of: funding for the board and staff of CareerSource Florida, Inc. Workforce Florida, Inc.; operating fiscal, compliance, and management accountability systems through CareerSource Florida, Inc. Workforce Florida, Inc.; conducting evaluation and research on workforce

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development activities; and providing technical and capacity building assistance to regions at the direction of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ Notwithstanding s. 445.004, such administrative costs ~~may~~ shall not exceed 25 percent of these funds. An amount not to exceed 75 percent of these funds shall be allocated to Individual Training Accounts and other workforce development strategies for other training designed and tailored by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, including, but not limited to, programs for incumbent workers, displaced homemakers, nontraditional employment, and enterprise zones. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall design, adopt, and fund Individual Training Accounts for distressed urban and rural communities.

3. The Incumbent Worker Training Program is created for the purpose of providing grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program will provide reimbursement grants to businesses that pay for preapproved, direct, training-related costs.

a. The Incumbent Worker Training Program will be administered by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ ~~Workforce Florida, Inc.~~, which ~~may~~, at its discretion, ~~may~~ contract with a private business organization to serve as grant administrator.

b. To be eligible for the program's grant funding, a business must have been in operation in Florida for a minimum of 1 year prior to the application for grant funding; have at least one full-time employee; demonstrate financial viability; and be current on all state tax obligations. Priority for funding shall

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be given to businesses with 25 employees or fewer, businesses in rural areas, businesses in distressed inner-city areas, businesses in a qualified targeted industry, businesses whose grant proposals represent a significant upgrade in employee skills, or businesses whose grant proposals represent a significant layoff avoidance strategy.

c. All costs reimbursed by the program must be preapproved by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or the grant administrator. The program ~~may~~ will not reimburse businesses for trainee wages, the purchase of capital equipment, or the purchase of any item or service that may possibly be used outside the training project. A business approved for a grant may be reimbursed for preapproved, direct, training-related costs including tuition, ~~+~~ fees, ~~+~~ books and training materials, ~~+~~ and overhead or indirect costs not to exceed 5 percent of the grant amount.

d. A business that is selected to receive grant funding must provide a matching contribution to the training project, including, but not limited to, wages paid to trainees or the purchase of capital equipment used in the training project; must sign an agreement with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or the grant administrator to complete the training project as proposed in the application; must keep accurate records of the project's implementation process; and must submit monthly or quarterly reimbursement requests with required documentation.

e. All Incumbent Worker Training Program grant projects shall be performance-based with specific measurable performance outcomes, including completion of the training project and job

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retention. CareerSource Florida, Inc. Workforce Florida, Inc., or the grant administrator shall withhold the final payment to the grantee until a final grant report is submitted and all performance criteria specified in the grant contract have been achieved.

f. CareerSource Florida, Inc. Workforce Florida, Inc., may establish guidelines necessary to implement the Incumbent Worker Training Program.

g. No more than 10 percent of the Incumbent Worker Training Program's total appropriation may be used for overhead or indirect purposes.

4. At least 50 percent of Rapid Response funding shall be dedicated to Intensive Services Accounts and Individual Training Accounts for dislocated workers and incumbent workers who are at risk of dislocation. CareerSource Florida, Inc. Workforce Florida, Inc., shall also maintain an Emergency Preparedness Fund from Rapid Response funds, which will immediately issue Intensive Service Accounts, and Individual Training Accounts, and as well as other federally authorized assistance to eligible victims of natural or other disasters. At the direction of the Governor, ~~for events that qualify under federal law~~, these Rapid Response funds shall be released to regional workforce boards for immediate use after events that qualify under federal law. Funding shall also be dedicated to maintain a unit at the state level to respond to Rapid Response emergencies and around the state, to work with state emergency management officials, ~~and to~~ ~~work with~~ regional workforce boards. All Rapid Response funds must be expended based on a plan developed by CareerSource Florida, Inc. Workforce Florida, Inc., and approved by the

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Governor.

(b) The administrative entity for Title I, Workforce Investment Act of 1998 funds, and Rapid Response activities ~~is~~ ~~shall be~~ the Department of Economic Opportunity, which shall provide direction to regional workforce boards regarding Title I programs and Rapid Response activities pursuant to the direction of CareerSource Florida, Inc. Workforce Florida, Inc.

(4) FEDERAL REQUIREMENTS, EXCEPTIONS AND REQUIRED MODIFICATIONS.—

(a) CareerSource Florida, Inc. Workforce Florida, Inc., may provide indemnification from audit liabilities to regional workforce boards that act in full compliance with state law and board policy ~~the board's policies~~.

(b) CareerSource Florida, Inc. Workforce Florida, Inc., may negotiate and settle all outstanding issues with the United States Department of Labor relating to decisions made by CareerSource Florida, Inc. Workforce Florida, Inc., any predecessor workforce organization, and the Legislature with regard to the Job Training Partnership Act, making settlements and closing out all JTPA program year grants.

(c) CareerSource Florida, Inc. Workforce Florida, Inc., may make modifications to the state's plan, policies, and procedures to comply with federally mandated requirements that in its judgment must be complied with to maintain funding provided pursuant to Pub. L. No. 105-220. The board shall provide written notice to ~~notify in writing~~ the Governor, the President of the Senate, and the Speaker of the House of Representatives within 30 days after any such changes or modifications.

(5) LONG-TERM CONSOLIDATION OF WORKFORCE DEVELOPMENT.—

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1335 CareerSource Florida, Inc. Workforce Florida, Inc., may
 1336 recommend workforce-related divisions, bureaus, units, programs,
 1337 duties, commissions, boards, and councils for elimination,
 1338 consolidation, or privatization that can be eliminated,
 1339 consolidated, or privatized.

1340 Section 28. Section 445.004, Florida Statutes, is amended
 1341 to read:

1342 445.004 CareerSource Florida, Inc. Workforce Florida, Inc.;
 1343 creation; purpose; membership; duties and powers.—

1344 (1) CareerSource Florida, Inc., There is created as a not-
 1345 for-profit corporation, to be known as "Workforce Florida,
 1346 Inc.", which shall be registered, incorporated, organized, and
 1347 operated in compliance with chapter 617. CareerSource Florida,
 1348 Inc., is not, and which shall not be a unit or entity of state
 1349 government and is shall be exempt from chapters 120 and 287.
 1350 CareerSource Florida, Inc. Workforce Florida, Inc., shall apply
 1351 the procurement and expenditure procedures required by federal
 1352 law for the expenditure of federal funds. CareerSource Florida,
 1353 Inc. Workforce Florida, Inc., shall be administratively housed
 1354 within the Department of Economic Opportunity; however,
 1355 CareerSource Florida, Inc., is not Workforce Florida, Inc.,
 1356 shall not be subject to control, supervision, or direction by
 1357 the department in any manner. The Legislature finds determines,
 1358 however, that public policy dictates that CareerSource Florida,
 1359 Inc. Workforce Florida, Inc., operate in the most open and
 1360 accessible manner consistent with its public purpose. To this
 1361 end, the Legislature specifically declares that CareerSource
 1362 Florida, Inc. Workforce Florida, Inc., its board, councils, and
 1363 any advisory committees or similar groups created by

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1364 CareerSource Florida, Inc. Workforce Florida, Inc., are subject
 1365 to the provisions of chapter 119 relating to public records, and
 1366 those provisions of chapter 286 relating to public meetings.

1367 (2) CareerSource Florida, Inc. Workforce Florida, Inc., is
 1368 the principal workforce policy organization for the state. The
 1369 purpose of CareerSource Florida, Inc. Workforce Florida, Inc.,
 1370 is to design and implement strategies that help Floridians
 1371 enter, remain in, and advance in the workplace, so that they may
 1372 become becoming more highly skilled and successful, which
 1373 benefits benefiting these Floridians, Florida businesses, and
 1374 the entire state, and fosters the development of to assist in
 1375 developing the state's business climate.

1376 (3) (a) CareerSource Florida, Inc. Workforce Florida, Inc.,
 1377 shall be governed by a board of directors, the number of
 1378 directors to be determined by the Governor, whose membership and
 1379 appointment must be consistent with Pub. L. No. 105-220, Title
 1380 I, s. 111(b). Members described in Pub. L. No. 105-220, Title I,
 1381 s. 111(b) (1) (C) (vi) shall be nonvoting members. The number of
 1382 directors shall be determined by the Governor, who shall
 1383 consider the importance of minority, gender, and geographic
 1384 representation in shall be considered when making appointments
 1385 to the board. The Governor, When the Governor is in attendance,
 1386 he or she shall preside at all meetings of the board of
 1387 directors.

1388 (b) The board of directors of CareerSource Florida, Inc.
 1389 Workforce Florida, Inc., shall be chaired by a board member
 1390 designated by the Governor pursuant to Pub. L. No. 105-220. A
 1391 member may not and shall serve no more than two terms.

1392 (c) Members appointed by the Governor may serve no more

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1393 than two terms and must be appointed for 3-year terms. However,
 1394 in order to establish staggered terms for board members, the
 1395 Governor shall appoint or reappoint one-third of the board
 1396 members for 1-year terms, one-third of the board members for 2-
 1397 year terms, and one-third of the board members for 3-year terms
 1398 beginning July 1, 2005. Subsequent appointments or
 1399 reappointments shall be ~~Following that date, the Governor shall~~
 1400 ~~appoint or reappoint board members~~ for 3-year terms ~~exclusively,~~
 1401 except that, ~~when a board member~~ appointed to fill a vacancy on
 1402 the board is replaced before the end of a 3-year term, the
 1403 ~~replacement shall be appointed to serve only the remainder of~~
 1404 ~~the that term of the member whom he or she is replacing, and,~~
 1405 ~~after which the replacement may be appointed for a subsequent~~
 1406 ~~full 3-year term.~~ Private sector representatives of businesses,
 1407 appointed by the Governor pursuant to Pub. L. No. 105-220, shall
 1408 constitute a majority of the membership of the board. Private
 1409 sector representatives shall be appointed from nominations
 1410 received by the Governor, including, but not limited to, those
 1411 nominations made by the President of the Senate and the Speaker
 1412 of the House of Representatives. Private sector appointments to
 1413 the board must ~~shall~~ be representative of the business community
 1414 of this state; no fewer than one-half of the appointments ~~to the~~
 1415 ~~board~~ must be representative of small businesses, and at least
 1416 five members must have economic development experience. Members
 1417 appointed by the Governor serve at the pleasure of the Governor
 1418 and are eligible for reappointment.

1419 (d) A member of the board of directors of CareerSource
 1420 Florida, Inc. ~~Workforce Florida, Inc.,~~ may be removed by the
 1421 Governor for cause. Absence from three consecutive meetings

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

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1422 results in automatic removal. The chair of CareerSource Florida,
 1423 Inc. ~~Workforce Florida, Inc.,~~ shall notify the Governor of such
 1424 absences.

1425 (e) Representatives of businesses appointed to the board of
 1426 directors may not include providers of workforce services.

1427 (4) (a) The president of CareerSource Florida, Inc.
 1428 ~~Workforce Florida, Inc.,~~ shall be hired by the board of
 1429 directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~
 1430 and shall serve at the pleasure of the Governor in the capacity
 1431 of an executive director and secretary of CareerSource Florida,
 1432 Inc. ~~Workforce Florida, Inc.~~

1433 (b) The board of directors of CareerSource Florida, Inc.
 1434 ~~Workforce Florida, Inc.,~~ shall meet at least quarterly and at
 1435 other times upon the call of its chair. The board and its
 1436 committees, subcommittees, or other subdivisions may use any
 1437 method of telecommunications to conduct meetings, including
 1438 establishing a quorum through telecommunications, if provided
 1439 ~~that~~ the public is given proper notice of the telecommunications
 1440 meeting and is given reasonable access to observe and, if when
 1441 appropriate, participate.

1442 (c) A majority of the total current membership of the board
 1443 of directors of CareerSource Florida, Inc., constitutes
 1444 ~~Workforce Florida, Inc.,~~ comprises a quorum ~~of the board.~~

1445 (d) A majority of those voting is required to organize and
 1446 conduct the business of the board, except that a majority of the
 1447 entire board of directors is required to adopt or amend the
 1448 bylaws.

1449 (e) Except as delegated or authorized by the board of
 1450 directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~

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individual members have no authority to control or direct the operations of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or the actions of its officers and employees, including the president.

(f) Members of the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and its committees shall serve without compensation, but these members, the president, and the all employees of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may be reimbursed for all reasonable, necessary, and actual expenses pursuant to s. 112.061.

(g) The board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may establish an executive committee consisting of the chair and at least six additional board members selected by the chair, one of whom must be a representative of organized labor. The executive committee and the president ~~shall~~ have such authority as the board delegates to them ~~it~~, except that the board of directors may not delegate to the executive committee authority to take action that requires approval by a majority of the entire board of directors.

(h) The chair may appoint committees to fulfill the board's ~~its~~ responsibilities, to comply with federal requirements, or to obtain technical assistance, and must incorporate members of regional workforce development boards into its structure.

(i) Each member of the board of directors who is not otherwise required to file a financial disclosure pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 must file disclosure of financial interests pursuant to s. 112.3145.

(5) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~,

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shall have all the powers and authority, not explicitly prohibited by statute ~~which are~~, necessary or convenient to carry out and effectuate ~~its the~~ purposes as determined by statute, Pub. L. No. 105-220, and the Governor, as well as its functions, duties, and responsibilities, including, but not limited to, the following:

(a) Serving as the state's Workforce Investment Board pursuant to Pub. L. No. 105-220. Unless otherwise required by federal law, at least 90 percent of ~~the~~ workforce development funding must go toward ~~into~~ direct customer service ~~costs~~.

(b) Providing oversight and policy direction to ensure that the following programs are administered by the department in compliance with approved plans and under contract with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~:

1. Programs authorized under Title I of the Workforce Investment Act of 1998, Pub. L. No. 105-220, with the exception of programs funded directly by the United States Department of Labor under Title I, s. 167.

2. Programs authorized under the Wagner-Peyser Act of 1933, as amended, 29 U.S.C. ss. 49 et seq.

3. Activities authorized under Title II of the Trade Act of 2002, as amended, 19 U.S.C. ss. 2272 et seq., and the Trade Adjustment Assistance Program.

4. Activities authorized under 38 U.S.C., chapter 41, including job counseling, training, and placement for veterans.

5. Employment and training activities carried out under funds awarded to this state by the United States Department of Housing and Urban Development.

6. Welfare transition services funded by the Temporary

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Assistance for Needy Families Program, created under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403, of the Social Security Act, as amended.

7. Displaced homemaker programs, provided under s. 446.50.

8. The Florida Bonding Program, provided under Pub. L. No. 97-300, s. 164(a)(1).

9. The Food Assistance Employment and Training Program, provided under the Food and Nutrition Act of 2008, 7 U.S.C. ss. 2011-2032; the Food Security Act of 1988, Pub. L. No. 99-198; and the Hunger Prevention Act, Pub. L. No. 100-435.

10. The Quick-Response Training Program, provided under ss. 288.046-288.047. Matching funds and in-kind contributions that are provided by clients of the Quick-Response Training Program shall count toward the requirements of s. 288.904, pertaining to the return on investment from activities of Enterprise Florida, Inc.

11. The Work Opportunity Tax Credit, provided under the Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277, and the Taxpayer Relief Act of 1997, Pub. L. No. 105-34.

12. Offender placement services, provided under ss. 944.707-944.708.

(c) The department may adopt rules necessary to administer the provisions of this chapter which relate to implementing and administering the programs listed in paragraph (b) as well as rules related to eligible training providers and auditing and monitoring subrecipients of the workforce system grant funds.

(d) Contracting with public and private entities as necessary to further the directives of this section. All

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contracts executed by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, must include specific performance expectations and deliverables. All CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, contracts, including those solicited, managed, or paid by the department pursuant to s. 20.60(5)(c) are exempt from s. 112.061, but shall be governed by subsection (1).

(e) Notifying the Governor, the President of the Senate, and the Speaker of the House of Representatives of noncompliance by the department or other agencies or obstruction of the board's efforts by such agencies. Upon such notification, the Executive Office of the Governor shall assist agencies to bring them into compliance with board objectives.

(f) Ensuring that the state does not waste valuable training resources. ~~Thus,~~ The board shall direct that all resources, including equipment purchased for training Workforce Investment Act clients, be available for use at all times by eligible populations as first priority users. At times when eligible populations are not available, such resources shall be used for any other state-authorized ~~state-authorized~~ education and training purpose. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may authorize expenditures to award suitable framed certificates, pins, or other tokens of recognition for performance by a regional workforce board, its committees and subdivisions, and other units of the workforce system. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may also authorize expenditures for promotional items, such as t-shirts, hats, or pens printed with messages promoting the state's workforce system to employers, job seekers, and program participants. However, such expenditures are subject to federal

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regulations applicable to the expenditure of federal funds.

(g) ~~Establishing~~ Establish a dispute resolution process for all memoranda of understanding or other contracts or agreements entered into between the department and regional workforce boards.

(h) Archiving records with the Bureau of Archives and Records Management of the Division of Library and Information Services of the Department of State.

(6) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may take action that it deems necessary to achieve the purposes of this section, including, but not limited to:

(a) Creating a state employment, education, and training policy that ensures that programs to prepare workers are responsive to present and future business and industry needs and complement the initiatives of Enterprise Florida, Inc.

(b) Establishing policy direction for a funding system that provides incentives to improve the outcomes of career education, ~~programs, and of~~ registered apprenticeship, and work-based learning programs, and that focuses resources on occupations related to new or emerging industries that add greatly to the value of the state's economy.

(c) Establishing a comprehensive policy related to the education and training of target populations such as those who have disabilities, are economically disadvantaged, receive public assistance, are not proficient in English, or are dislocated workers. This approach should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance.

(d) Designating Institutes of Applied Technology composed

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of public and private postsecondary institutions working together with business and industry to ensure that career education programs use the most advanced technology and instructional methods available and respond to the changing needs of business and industry.

(e) Providing policy direction for a system to project and evaluate labor market supply and demand using the results of the Workforce Estimating Conference created in s. 216.136 and the career education performance standards identified under s. 1008.43.

(f) Reviewing the performance of public programs that are responsible for economic development, education, employment, and training. The review must include an analysis of the return on investment of these programs.

(g) Expanding the occupations identified by the Workforce Estimating Conference to meet needs created by local emergencies or plant closings or to capture occupations within emerging industries.

(7) By December 1 of each year, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed annual report setting forth:

(a) All audits, including any ~~the~~ audit conducted under ~~in~~ subsection (8), ~~if conducted~~.

(b) The operations and accomplishments of the board, including the programs or entities specified ~~listed~~ in subsection (6).

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(8) ~~The Auditor General may~~, Pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, the Auditor General may conduct an audit of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or the programs or entities created by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ The Office of Program Policy Analysis and Government Accountability, pursuant to its authority or at the direction of the Legislative Auditing Committee, may review the systems and controls related to performance outcomes and quality of services of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

(9) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, in collaboration with the regional workforce boards and appropriate state agencies and local public and private service providers, and in consultation with the Office of Program Policy Analysis and Government Accountability, shall establish uniform measures and standards to gauge the performance of the workforce development strategy. These measures and standards must be organized into three outcome tiers.

(a) The first tier of measures must be organized to provide benchmarks for systemwide outcomes. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, ~~shall must~~, in collaboration with the Office of Program Policy Analysis and Government Accountability, establish goals for the tier-one outcomes. Systemwide outcomes may include employment in occupations demonstrating continued growth in wages; continued employment after 3, 6, 12, and 24 months; reduction in and elimination of public assistance reliance; job placement; employer satisfaction; and positive return on investment of public resources.

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(b) The second tier of measures must be organized to provide a set of benchmark outcomes for the strategic components of the workforce development strategy. Cost per entered employment, earnings at placement, retention in employment, job placement, and entered employment rate must be included among the performance outcome measures.

(c) The third tier of measures must be the operational output measures to be used by the agency implementing programs, which and it may be specific to federal requirements. The tier-three measures must be developed by the agencies implementing programs, which and Workforce Florida, Inc., may consult with CareerSource Florida, Inc., ~~be consulted~~ in this effort. Such measures must be reported to CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, by the appropriate implementing agency.

(d) Regional differences must be reflected in the establishment of performance goals and may include job availability, unemployment rates, average worker wage, and available employable population.

(e) Job placement must be reported pursuant to s. 1008.39. Positive outcomes for providers of education and training must be consistent with ss. 1008.42 and 1008.43.

(f) The uniform measures of success that are adopted by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or the regional workforce boards must be developed in a manner that provides for an equitable comparison of the relative success or failure of any service provider in terms of positive outcomes.

(g) By December 1 of each year, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall provide the Legislature with a report detailing the performance of Florida's workforce

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development system, as reflected in the three-tier measurement system. ~~The Additionally, this report also must benchmark Florida outcomes for, at all tiers as compared with, against~~ other states that collect data similarly.

(10) The workforce development strategy for the state shall be designed by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ The strategy must include efforts that enlist business, education, and community support for students to achieve long-term career goals, ensuring that young people have the academic and occupational skills required to succeed in the workplace. The strategy must also assist employers in upgrading or updating the skills of their employees and assisting workers to acquire the education or training needed to secure a better job with better wages. The strategy must assist the state's efforts to attract and expand job-creating businesses offering high-paying, high-demand occupations.

(11) The workforce development system must ~~shall~~ use a charter-process approach aimed at encouraging local design and control of service delivery and targeted activities. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall be responsible for granting charters to regional workforce boards that have a membership consistent with the requirements of federal and state law and ~~that~~ have developed a plan consistent with the state's workforce development strategy. The plan must specify methods for allocating the resources and programs in a manner that eliminates unwarranted duplication, minimizes administrative costs, meets the existing job market demands and the job market demands resulting from successful economic development activities, ensures access to quality workforce

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development services for all Floridians, allows for pro rata or partial distribution of benefits and services, prohibits the creation of a waiting list or other indication of an unserved population, serves as many individuals as possible within available resources, and maximizes successful outcomes. As part of the charter process, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish incentives for effective coordination of federal and state programs, outline rewards for successful job placements, and institute collaborative approaches among local service providers. Local decisionmaking and control shall be important components for inclusion in this charter application.

(12) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall enter into agreement with Space Florida and collaborate with vocational institutes, community colleges, colleges, and universities in this state, to develop a workforce development strategy to implement the workforce provisions of s. 331.3051.

Section 29. Subsections (1) and (2), paragraph (g) of subsection (3), and paragraph (a) of subsection (6) of section 445.006, Florida Statutes, are amended to read:

445.006 Strategic and operational plans for workforce development.—

(1) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, in conjunction with state and local partners in the workforce system, shall develop a strategic plan that produces skilled employees for employers in the state. The strategic plan shall be updated or modified by January 1 of each year. The plan must include, but need not be limited to, strategies for:

(a) Fulfilling the workforce system goals and strategies

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prescribed in s. 445.004;

(b) Aggregating, integrating, and leveraging workforce system resources;

(c) Coordinating the activities of federal, state, and local workforce system partners;

(d) Addressing the workforce needs of small businesses; and

(e) Fostering the participation of rural communities and distressed urban cores in the workforce system.

(2) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish an operational plan to implement the state strategic plan. The operational plan shall be submitted to the Governor and the Legislature along with the strategic plan and must reflect the allocation of resources as appropriated by the Legislature to specific responsibilities enumerated in law. As a component of the operational plan required under this section, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall develop a workforce marketing plan, with the goal of educating individuals inside and outside the state about the employment market and employment conditions in the state. The marketing plan must include, but need not be limited to, strategies for:

(a) Distributing information to secondary and postsecondary education institutions about the diversity of businesses in the state, specific clusters of businesses or business sectors in the state, and occupations by industry which are in demand by employers in the state;

(b) Distributing information about and promoting use of the Internet-based job matching and labor market information system authorized under s. 445.011; and

(c) Coordinating with Enterprise Florida, Inc., to ensure

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that workforce marketing efforts complement the economic development marketing efforts of the state.

(3) The operational plan must include performance measures, standards, measurement criteria, and contract guidelines in the following areas with respect to participants in the welfare transition program:

(g) Other issues identified by the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

(6) (a) The operational plan must include strategies that are designed to prevent or reduce the need for a person to receive public assistance, including:

1. A teen pregnancy prevention component that includes, but is not limited to, a plan for implementing the Teen Pregnancy Prevention Community Initiative within each county of the services area in which the teen birth rate is higher than the state average;

2. A component that encourages community-based welfare prevention and reduction initiatives that increase support provided by noncustodial parents to their welfare-dependent children and are consistent with program and financial guidelines developed by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the Commission on Responsible Fatherhood. These initiatives may include improved paternity establishment, work activities for noncustodial parents, programs aimed at decreasing out-of-wedlock pregnancies, encouraging involvement of fathers with their children which includes court-ordered supervised visitation, and increasing child support payments;

3. A component that encourages formation and maintenance of two-parent families through, among other things, court-ordered

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1799 supervised visitation;

1800 4. A component that fosters responsible fatherhood in
1801 families receiving assistance; and

1802 5. A component that fosters the provision of services that
1803 reduce the incidence and effects of domestic violence on women
1804 and children in families receiving assistance.

1805 Section 30. Subsections (3), (4), (5), (6), (7), (9), (10),
1806 (11), and (12) of section 445.007, Florida Statutes, are amended
1807 to read:

1808 445.007 Regional workforce boards.—

1809 (3) The Department of Economic Opportunity, under the
1810 direction of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~,
1811 shall assign staff to meet with each regional workforce board
1812 annually to review the board's performance and to certify that
1813 the board is in compliance with applicable state and federal
1814 law.

1815 (4) In addition to the duties and functions specified by
1816 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and by the
1817 interlocal agreement approved by the local county or city
1818 governing bodies, the regional workforce board shall have the
1819 following responsibilities:

1820 (a) Develop, submit, ratify, or amend the local plan
1821 pursuant to Pub. L. No. 105-220, Title I, s. 118, and the
1822 provisions of this act.

1823 (b) Conclude agreements necessary to designate the fiscal
1824 agent and administrative entity. A public or private entity,
1825 including an entity established pursuant to s. 163.01, which
1826 makes a majority of the appointments to a regional workforce
1827 board may serve as the board's administrative entity if approved

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1828 by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, based
1829 upon a showing that a fair and competitive process was used to
1830 select the administrative entity.

1831 (c) Complete assurances required for the charter process of
1832 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and provide
1833 ongoing oversight related to administrative costs, duplicated
1834 services, career counseling, economic development, equal access,
1835 compliance and accountability, and performance outcomes.

1836 (d) Oversee the one-stop delivery system in its local area.

1837 (5) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~,
1838 shall implement a training program for the regional workforce
1839 boards to familiarize board members with the state's workforce
1840 development goals and strategies.

1841 (6) The regional workforce board shall designate all local
1842 service providers and may not transfer this authority to a third
1843 party. Consistent with the intent of the Workforce Investment
1844 Act, regional workforce boards should provide the greatest
1845 possible choice of training providers to those who qualify for
1846 training services. A regional workforce board may not restrict
1847 the choice of training providers based upon cost, location, or
1848 historical training arrangements. However, a board may restrict
1849 the amount of training resources available to any one client.
1850 Such restrictions may vary based upon the cost of training in
1851 the client's chosen occupational area. The regional workforce
1852 board may be designated as a one-stop operator and direct
1853 provider of intake, assessment, eligibility determinations, or
1854 other direct provider services except training services. Such
1855 designation may occur only with the agreement of the chief
1856 elected official and the Governor as specified in 29 U.S.C. s.

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1857 2832(f)(2). CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~,
 1858 shall establish procedures by which a regional workforce board
 1859 may request permission to operate under this section and the
 1860 criteria under which such permission may be granted. The
 1861 criteria shall include, but need not be limited to, a reduction
 1862 in the cost of providing the permitted services. Such permission
 1863 shall be granted for a period not to exceed 3 years for any
 1864 single request submitted by the regional workforce board.

1865 (7) Regional workforce boards shall adopt a committee
 1866 structure consistent with applicable federal law and state
 1867 policies established by CareerSource Florida, Inc. ~~Workforce~~
 1868 ~~Florida, Inc.~~

1869 (9) For purposes of procurement, regional workforce boards
 1870 and their administrative entities are not state agencies and are
 1871 exempt from chapters 120 and 287. The regional workforce boards
 1872 shall apply the procurement and expenditure procedures required
 1873 by federal law and policies of the Department of Economic
 1874 Opportunity and CareerSource Florida, Inc. ~~Workforce Florida,~~
 1875 ~~Inc.~~, for the expenditure of federal, state, and nonpass-through
 1876 funds. The making or approval of smaller, multiple payments for
 1877 a single purchase with the intent to avoid or evade the monetary
 1878 thresholds and procedures established by federal law and
 1879 policies of the Department of Economic Opportunity and
 1880 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, is grounds
 1881 for removal for cause. Regional workforce boards, their
 1882 administrative entities, committees, and subcommittees, and
 1883 other workforce units may authorize expenditures to award
 1884 suitable framed certificates, pins, or other tokens of
 1885 recognition for performance by units of the workforce system.

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1886 Regional workforce boards; their administrative entities,
 1887 committees, and subcommittees; and other workforce units may
 1888 authorize expenditures for promotional items, such as t-shirts,
 1889 hats, or pens printed with messages promoting Florida's
 1890 workforce system to employers, job seekers, and program
 1891 participants. However, such expenditures are subject to federal
 1892 regulations applicable to the expenditure of federal funds. All
 1893 contracts executed by regional workforce boards must include
 1894 specific performance expectations and deliverables.

1895 (10) State and federal funds provided to the regional
 1896 workforce boards may not be used directly or indirectly to pay
 1897 for meals, food, or beverages for board members, staff, or
 1898 employees of regional workforce boards, CareerSource Florida,
 1899 Inc. ~~Workforce Florida, Inc.~~, or the Department of Economic
 1900 Opportunity except as expressly authorized by state law.
 1901 Preapproved, reasonable, and necessary per diem allowances and
 1902 travel expenses may be reimbursed. Such reimbursement shall be
 1903 at the standard travel reimbursement rates established in s.
 1904 112.061 and shall be in compliance with all applicable federal
 1905 and state requirements. CareerSource Florida, Inc. ~~Workforce~~
 1906 ~~Florida, Inc.~~, shall develop a statewide fiscal policy
 1907 applicable to the state board and all regional workforce boards,
 1908 to hold both the state and regional boards strictly accountable
 1909 for adherence to the policy and subject to regular and periodic
 1910 monitoring by the Department of Economic Opportunity, the
 1911 administrative entity for CareerSource Florida, Inc. ~~Workforce~~
 1912 ~~Florida, Inc.~~ Boards are prohibited from expending state or
 1913 federal funds for entertainment costs and recreational
 1914 activities for board members and employees as these terms are

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defined by 2 C.F.R. part 230.

(11) To increase transparency and accountability, a regional workforce board must comply with the requirements of this section before contracting with a member of the board or a relative, as defined in s. 112.3143(1)(c), of a board member or of an employee of the board. Such contracts may not be executed before or without the approval of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ Such contracts, as well as documentation demonstrating adherence to this section as specified by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, must be submitted to the Department of Economic Opportunity for review and recommendation according to criteria to be determined by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ Such a contract must be approved by a two-thirds vote of the board, a quorum having been established; all conflicts of interest must be disclosed before the vote; and any member who may benefit from the contract, or whose relative may benefit from the contract, must abstain from the vote. A contract under \$25,000 between a regional workforce board and a member of that board or between a relative, as defined in s. 112.3143(1)(c), of a board member or of an employee of the board is not required to have the prior approval of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, but must be approved by a two-thirds vote of the board, a quorum having been established, and must be reported to the Department of Economic Opportunity and CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, within 30 days after approval. If a contract cannot be approved by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, a review of the decision to disapprove the contract may be requested by the regional workforce board or

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other parties to the disapproved contract.

(12) Each regional workforce board shall develop a budget for the purpose of carrying out the duties of the board under this section, subject to the approval of the chief elected official. Each regional workforce board shall submit its annual budget for review to CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, no later than 2 weeks after the chair approves the budget.

Section 31. Subsections (1) and (4) of section 445.0071, Florida Statutes, are amended to read:

445.0071 Florida Youth Summer Jobs Pilot Program.—

(1) CREATION.—Contingent upon appropriations, there is created the Florida Youth Summer Jobs Pilot Program within workforce development district 22 served by the Broward Workforce Development Board. The board shall, in consultation with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, provide a program offering at-risk and disadvantaged children summer jobs in partnership with local communities and public employers.

(4) GOVERNANCE.—

(a) The pilot program shall be administered by the regional workforce board in consultation with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

(b) The regional workforce board shall report to CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the number of at-risk and disadvantaged children who enter the program, the types of work activities they participate in, and the number of children who return to school, go on to postsecondary school, or enter the workforce full time at the end of the program. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall report

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1973 to the Legislature by November 1 of each year on the performance
1974 of the program.

1975 Section 32. Section 445.008, Florida Statutes, is amended
1976 to read:

1977 445.008 Workforce Training Institute.—

1978 (1) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may
1979 create the Workforce Training Institute, which shall be a
1980 comprehensive program of workforce training courses designed to
1981 meet the unique needs of, and shall include Internet-based
1982 training modules suitable for and made available to,
1983 professionals integral to the workforce system, including
1984 advisors and counselors in educational institutions.

1985 (2) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may
1986 enter into a contract for the provision of administrative
1987 support services for the institute and. ~~Workforce Florida, Inc.~~,
1988 shall adopt policies for the administration and operation of the
1989 institute and establish admission fees in an amount which, in
1990 the aggregate, does not exceed the cost of the program.
1991 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may accept
1992 donations or grants of any type for any function or purpose of
1993 the institute.

1994 (3) All moneys, fees, donations, or grants collected by
1995 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, under this
1996 section shall be applied to cover all costs incurred in
1997 establishing and conducting the workforce training programs
1998 authorized under this section, including, but not limited to,
1999 salaries for instructors and costs of materials connected to
2000 such programs.

2001 Section 33. Subsections (2) and (4), paragraph (b) of

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2002 subsection (6), subsection (7), paragraphs (a), (c), and (d) of
2003 subsection (8), and subsection (9) of section 445.009, Florida
2004 Statutes, are amended to read:

2005 445.009 One-stop delivery system.—

2006 (2) (a) Subject to a process designed by CareerSource
2007 Florida, Inc. ~~Workforce Florida, Inc.~~, and in compliance with
2008 Pub. L. No. 105-220, regional workforce boards shall designate
2009 one-stop delivery system operators.

2010 (b) A regional workforce board may designate as its one-
2011 stop delivery system operator any public or private entity that
2012 is eligible to provide services under any state or federal
2013 workforce program that is a mandatory or discretionary partner
2014 in the region's one-stop delivery system if approved by
2015 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, upon a
2016 showing by the regional workforce board that a fair and
2017 competitive process was used in the selection. As a condition of
2018 authorizing a regional workforce board to designate such an
2019 entity as its one-stop delivery system operator, CareerSource
2020 Florida, Inc. ~~Workforce Florida, Inc.~~, must require the regional
2021 workforce board to demonstrate that safeguards are in place to
2022 ensure that the one-stop delivery system operator will not
2023 exercise an unfair competitive advantage or unfairly refer or
2024 direct customers of the one-stop delivery system to services
2025 provided by that one-stop delivery system operator. A regional
2026 workforce board may retain its current One-Stop Career Center
2027 operator without further procurement action if ~~where~~ the board
2028 has an established ~~a~~ One-Stop Career Center that has complied
2029 with federal and state law.

2030 (4) One-stop delivery system partners shall enter into a

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memorandum of understanding pursuant to Pub. L. No. 105-220, Title I, s. 121, with the regional workforce board. Failure of a local partner to participate cannot unilaterally block the majority of partners from moving forward with their one-stop delivery system, and CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, pursuant to s. 445.004(5)(e), may make notification of a local partner that fails to participate.

(6)

(b) To expand electronic capabilities, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, working with regional workforce boards, shall develop a centralized help center to assist regional workforce boards in fulfilling core services, minimizing the need for fixed-site one-stop delivery system centers.

(7) Intensive services and training provided pursuant to Pub. L. No. 105-220, shall be provided to individuals through Intensive Service Accounts and Individual Training Accounts. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall develop an implementation plan, including identification of initially eligible training providers, transition guidelines, and criteria for use of these accounts. Individual Training Accounts must be compatible with Individual Development Accounts for education allowed in federal and state welfare reform statutes.

(8) (a) Individual Training Accounts must be expended on programs that prepare people to enter high-wage occupations identified by the Workforce Estimating Conference created by s. 216.136, and on other programs as approved by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

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(c) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall periodically review Individual Training Account pricing schedules developed by regional workforce boards and present findings and recommendations for process improvement to the President of the Senate and the Speaker of the House of Representatives.

(d) To the maximum extent possible, training providers shall use funding sources other than the funding provided under Pub. L. No. 105-220. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall develop a system to encourage the leveraging of appropriated resources for the workforce system and shall report on such efforts as part of the required annual report.

(9) (a) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, working with the department, shall coordinate among the agencies a plan for a One-Stop Electronic Network made up of one-stop delivery system centers and other partner agencies that are operated by authorized public or private for-profit or not-for-profit agents. The plan shall identify resources within existing revenues to establish and support this electronic network for service delivery that includes Government Services Direct. If necessary, the plan shall identify additional funding needed to achieve the provisions of this subsection.

(b) The network shall assure that a uniform method is used to determine eligibility for and management of services provided by agencies that conduct workforce development activities. The Department of Management Services shall develop strategies to allow access to the databases and information management systems of the following systems in order to link information in those

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2089 databases with the one-stop delivery system:

2090 1. The Reemployment Assistance Program under chapter 443.

2091 2. The public employment service described in s. 443.181.

2092 3. The FLORIDA System and the components related to

2093 temporary cash assistance, food assistance, and Medicaid

2094 eligibility.

2095 4. The Student Financial Assistance System of the

2096 Department of Education.

2097 5. Enrollment in the public postsecondary education system.

2098 6. Other information systems determined appropriate by

2099 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

2100 Section 34. Section 445.011, Florida Statutes, is amended

2101 to read:

2102 445.011 Workforce information systems.—

2103 (1) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~,

2104 shall implement, subject to legislative appropriation, automated

2105 information systems that are necessary for the efficient and

2106 effective operation and management of the workforce development

2107 system. These information systems shall include, but need not be

2108 limited to, the following:

2109 (a) An integrated management system for the one-stop

2110 service delivery system, which includes, at a minimum, common

2111 registration and intake, screening for needs and benefits, case

2112 planning and tracking, training benefits management, service and

2113 training provider management, performance reporting, executive

2114 information and reporting, and customer-satisfaction tracking

2115 and reporting.

2116 1. The system should report current budgeting, expenditure,

2117 and performance information for assessing performance related to

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2118 outcomes, service delivery, and financial administration for

2119 workforce programs pursuant to s. 445.004(5) and (9).

2120 2. The information system should include auditable systems

2121 and controls to ensure financial integrity and valid and

2122 reliable performance information.

2123 3. The system should support service integration and case

2124 management by providing for case tracking for participants in

2125 welfare transition programs.

2126 (b) An automated job-matching information system that is

2127 accessible to employers, job seekers, and other users via the

2128 Internet, and that includes, at a minimum:

2129 1. Skill match information, including skill gap analysis;

2130 resume creation; job order creation; skill tests; job search by

2131 area, employer type, and employer name; and training provider

2132 linkage;

2133 2. Job market information based on surveys, including

2134 local, state, regional, national, and international occupational

2135 and job availability information; and

2136 3. Service provider information, including education and

2137 training providers, child care facilities and related

2138 information, health and social service agencies, and other

2139 providers of services that would be useful to job seekers.

2140 (2) In procuring workforce information systems,

2141 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall employ

2142 competitive processes, including requests for proposals,

2143 competitive negotiation, and other competitive processes to

2144 ensure that the procurement results in the most cost-effective

2145 investment of state funds.

2146 (3) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may

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procure independent verification and validation services associated with developing and implementing any workforce information system.

(4) ~~CareerSource Florida, Inc. Workforce Florida, Inc.,~~ shall coordinate development and implementation of workforce information systems with the executive director of the Agency for State Technology to ensure compatibility with the state's information system strategy and enterprise architecture.

Section 35. Subsections (1) and (3) of section 445.014, Florida Statutes, are amended to read:

445.014 Small business workforce service initiative.—

(1) Subject to legislative appropriation, CareerSource Florida, Inc. Workforce Florida, Inc., shall establish a program to encourage regional workforce development boards to establish one-stop delivery systems that maximize the provision of workforce and human-resource support services to small businesses. Under the program, a regional workforce board may apply, on a competitive basis, for funds to support the provision of such services to small businesses through the region's one-stop delivery system.

(3) ~~CareerSource Florida, Inc. Workforce Florida, Inc.,~~ shall establish guidelines governing the administration of this program and shall establish criteria to be used in evaluating applications for funding. Such criteria must include, but need not be limited to, a showing that the regional board has in place a detailed plan for establishing a one-stop delivery system designed to meet the workforce needs of small businesses and for leveraging other funding sources in support of such activities.

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Section 36. Subsection (5) of section 445.016, Florida Statutes, is amended to read:

445.016 Untried Worker Placement and Employment Incentive Act.—

(5) Incentives must be paid according to the incentive schedule developed by CareerSource Florida, Inc. Workforce Florida, Inc., the Department of Economic Opportunity, and the Department of Children and Families which costs the state less per placement than the state's 12-month expenditure on a welfare recipient.

Section 37. Subsections (2) and (4) of section 445.021, Florida Statutes, are amended to read:

445.021 Relocation assistance program.—

(2) The relocation assistance program shall involve five steps by the regional workforce board, in cooperation with the Department of Children and Families:

(a) A determination that the family is receiving temporary cash assistance or that all requirements of eligibility for diversion services would likely be met.

(b) A determination that there is a basis for believing that relocation will contribute to the ability of the applicant to achieve self-sufficiency. For example, the applicant:

1. Is unlikely to achieve economic self-sufficiency at the current community of residence;

2. Has secured a job that provides an increased salary or improved benefits and that requires relocation to another community;

3. Has a family support network that will contribute to job retention in another community;

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4. Is determined, pursuant to criteria or procedures established by the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, to be a victim of domestic violence who would experience reduced probability of further incidents through relocation; or

5. Must relocate in order to receive education or training that is directly related to the applicant's employment or career advancement.

(c) Establishment of a relocation plan that includes such requirements as are necessary to prevent abuse of the benefit and provisions to protect the safety of victims of domestic violence and avoid provisions that place them in anticipated danger. The payment to defray relocation expenses shall be determined based on criteria approved by the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ Participants in the relocation program shall be eligible for diversion or transitional benefits.

(d) A determination, pursuant to criteria adopted by the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, that a community receiving a relocated family has the capacity to provide needed services and employment opportunities.

(e) Monitoring the relocation.

(4) The board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may establish criteria for developing and implementing relocation plans and for drafting agreements to restrict a family from applying for temporary cash assistance for a specified period after receiving a relocation assistance payment.

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Section 38. Section 445.022, Florida Statutes, is amended to read:

445.022 Retention Incentive Training Accounts.—To promote job retention and to enable upward job advancement into higher skilled, higher paying employment, the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the regional workforce boards may assemble, ~~from postsecondary education institutions,~~ a list of programs and courses offered by postsecondary educational institutions which may be available to ~~for~~ participants who have become employed to ~~which~~ promote job retention and advancement.

(1) The board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may establish Retention Incentive Training Accounts (RITAs) to use. ~~RITAs shall utilize~~ Temporary Assistance to Needy Families (TANF) block grant funds specifically appropriated for this purpose. RITAs must complement the Individual Training Account required by the federal Workforce Investment Act of 1998, Pub. L. No. 105-220.

(2) RITAs may pay for tuition, fees, educational materials, coaching and mentoring, performance incentives, transportation to and from courses, child care costs during education courses, and other such costs as the regional workforce boards determine are necessary to effect successful job retention and advancement.

(3) Regional workforce boards shall retain only those courses that continue to meet their performance standards as established in their local plan.

(4) Regional workforce boards shall report annually to the Legislature on the measurable retention and advancement success

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2263 of each program provider and the effectiveness of RITAs, making
 2264 recommendations for any needed changes or modifications.

2265 Section 39. Paragraph (e) of subsection (5) of section
 2266 445.024, Florida Statutes, is amended to read:

2267 445.024 Work requirements.—

2268 (5) USE OF CONTRACTS.—Regional workforce boards shall
 2269 provide work activities, training, and other services, as
 2270 appropriate, through contracts. In contracting for work
 2271 activities, training, or services, the following applies:

2272 (e) The administrative costs associated with a contract for
 2273 services provided under this section may not exceed the
 2274 applicable administrative cost ceiling established in federal
 2275 law. An agency or entity that is awarded a contract under this
 2276 section may not charge more than 7 percent of the value of the
 2277 contract for administration, unless an exception is approved by
 2278 the regional workforce board. A list of any exceptions approved
 2279 must be submitted to the board of directors of CareerSource
 2280 Florida, Inc. ~~Workforce Florida, Inc.~~, for review, and the board
 2281 may rescind approval of the exception.

2282 Section 40. Subsection (6) of section 445.026, Florida
 2283 Statutes, is amended to read:

2284 445.026 Cash assistance severance benefit.—An individual
 2285 who meets the criteria listed in this section may choose to
 2286 receive a lump-sum payment in lieu of ongoing cash assistance
 2287 payments, provided the individual:

2288 (6) Signs an agreement not to apply for or accept cash
 2289 assistance for 6 months after receipt of the one-time payment.
 2290 In the event of an emergency, such agreement shall provide for
 2291 an exception to this restriction, provided that the one-time

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2292 payment shall be deducted from any cash assistance for which the
 2293 family subsequently is approved. This deduction may be prorated
 2294 over an 8-month period. The board of directors of CareerSource
 2295 Florida, Inc. ~~Workforce Florida, Inc.~~, shall adopt criteria
 2296 defining the conditions under which a family may receive cash
 2297 assistance due to such emergency.

2298

2299 Such individual may choose to accept a one-time, lump-sum
 2300 payment of \$1,000 in lieu of receiving ongoing cash assistance.
 2301 Such payment shall only count toward the time limitation for the
 2302 month in which the payment is made in lieu of cash assistance. A
 2303 participant choosing to accept such payment shall be terminated
 2304 from cash assistance. However, eligibility for Medicaid, food
 2305 assistance, or child care shall continue, subject to the
 2306 eligibility requirements of those programs.

2307 Section 41. Section 445.028, Florida Statutes, is amended
 2308 to read:

2309 445.028 Transitional benefits and services.—In cooperation
 2310 with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the
 2311 Department of Children and Families shall develop procedures to
 2312 ensure that families leaving the temporary cash assistance
 2313 program receive transitional benefits and services that will
 2314 assist the family in moving toward self-sufficiency. At a
 2315 minimum, such procedures must include, but are not limited to,
 2316 the following:

2317 (1) Each recipient of cash assistance who is determined
 2318 ineligible for cash assistance for a reason other than a work
 2319 activity sanction shall be contacted by the workforce system
 2320 case manager and provided information about the availability of

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2321 transitional benefits and services. Such contact shall be
2322 attempted prior to closure of the case management file.

2323 (2) Each recipient of temporary cash assistance who is
2324 determined ineligible for cash assistance due to noncompliance
2325 with the work activity requirements shall be contacted and
2326 provided information in accordance with s. 414.065(1).

2327 (3) The department, in consultation with the board of
2328 directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~,
2329 shall develop informational material, including posters and
2330 brochures, to better inform families about the availability of
2331 transitional benefits and services.

2332 (4) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, in
2333 cooperation with the Department of Children and Families shall,
2334 to the extent permitted by federal law, develop procedures to
2335 maximize the utilization of transitional Medicaid by families
2336 who leave the temporary cash assistance program.

2337 Section 42. Section 445.030, Florida Statutes, is amended
2338 to read:

2339 445.030 Transitional education and training.—In order to
2340 assist former recipients of temporary cash assistance who are
2341 working or actively seeking employment in continuing their
2342 training and upgrading their skills, education, or training,
2343 support services may be provided for up to 2 years after the
2344 family is no longer receiving temporary cash assistance. This
2345 section does not constitute an entitlement to transitional
2346 education and training. If funds are not sufficient to provide
2347 services under this section, the board of directors of
2348 CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may limit or
2349 otherwise prioritize transitional education and training.

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2350 (1) Education or training resources available in the
2351 community at no additional cost shall be used whenever possible.

2352 (2) Regional workforce boards may authorize child care or
2353 other support services in addition to services provided in
2354 conjunction with employment. For example, a participant who is
2355 employed full time may receive child care services related to
2356 that employment and may also receive additional child care
2357 services in conjunction with training to upgrade the
2358 participant's skills.

2359 (3) Transitional education or training must be job-related,
2360 but may include training to improve job skills in a
2361 participant's existing area of employment or may include
2362 training to prepare a participant for employment in another
2363 occupation.

2364 (4) A regional workforce board may enter into an agreement
2365 with an employer to share the costs relating to upgrading the
2366 skills of participants hired by the employer. For example, a
2367 regional workforce board may agree to provide support services
2368 such as transportation or a wage subsidy in conjunction with
2369 training opportunities provided by the employer.

2370 Section 43. Section 445.033, Florida Statutes, is amended
2371 to read:

2372 445.033 Evaluation.—The board of directors of CareerSource
2373 Florida, Inc. ~~Workforce Florida, Inc.~~, and the Department of
2374 Children and Families shall arrange for evaluation of TANF-
2375 funded programs operated under this chapter, as follows:

2376 (1) If required by federal waivers or other federal
2377 requirements, the board of directors of CareerSource Florida,
2378 Inc. ~~Workforce Florida, Inc.~~, and the department may provide for

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evaluation according to these requirements.

(2) The board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the department shall participate in the evaluation of this program in conjunction with evaluation of the state's workforce development programs or similar activities aimed at evaluating program outcomes, cost-effectiveness, or return on investment, and the impact of time limits, sanctions, and other welfare reform measures set out in this chapter. Evaluation shall also contain information on the number of participants in work experience assignments who obtain unsubsidized employment, including, but not limited to, the length of time the unsubsidized job is retained, wages, and the public benefits, if any, received by such families while in unsubsidized employment. The evaluation must ~~shall~~ solicit the input of consumers, community-based organizations, service providers, employers, and the general public, and must ~~shall~~ publicize, especially in low-income communities, the process for submitting comments.

(3) The board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the department may share information with and develop protocols for information exchange with the Florida Education and Training Placement Information Program.

(4) The board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the department may initiate or participate in additional evaluation or assessment activities that will further the systematic study of issues related to program goals and outcomes.

(5) In providing for evaluation activities, the board of

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directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the department shall safeguard the use or disclosure of information obtained from program participants consistent with federal or state requirements. Evaluation methodologies may be used which are appropriate for evaluation of program activities, including random assignment of recipients or participants into program groups or control groups. To the extent necessary or appropriate, evaluation data shall provide information with respect to the state, district, or county, or other substate area.

(6) The board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the department may contract with a qualified organization for evaluations conducted under this section.

Section 44. Section 445.035, Florida Statutes, is amended to read:

445.035 Data collection and reporting.—The Department of Children and Families and the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall collect data necessary to administer this chapter and make the reports required under federal law to the United States Department of Health and Human Services and the United States Department of Agriculture.

Section 45. Section 445.038, Florida Statutes, is amended to read:

445.038 Digital media; job training.—CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, through the Department of Economic Opportunity, may use funds dedicated for incumbent worker training for the digital media industry. Training may be

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provided by public or private training providers for broadband digital media jobs listed on the targeted occupations list developed by the Workforce Estimating Conference or CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ Programs that operate outside the normal semester time periods and coordinate the use of industry and public resources should be given priority status for funding.

Section 46. Section 445.045, Florida Statutes, is amended to read:

445.045 Development of an Internet-based system for information technology industry promotion and workforce recruitment.—

(1) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, is responsible for directing the development and maintenance of a website that promotes and markets the information technology industry in this state. The website shall be designed to inform the public concerning the scope of the information technology industry in the state and shall also be designed to address the workforce needs of the industry. The website must ~~shall~~ include, through links or actual content, information concerning information technology businesses in this state, including links to such businesses; information concerning employment available at these businesses; and the means by which a job seeker may post a resume on the website.

(2) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall coordinate with the Agency for State Technology and the Department of Economic Opportunity to ensure links, as where ~~as where~~ feasible and appropriate, to existing job information websites maintained by the state and state agencies and to ensure that

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information technology positions offered by the state and state agencies are posted on the information technology website.

(3) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall ensure that the website developed and maintained under this section is consistent, compatible, and coordinated with the workforce information systems required under s. 445.011, including, but not limited to, the automated job-matching information system for employers, job seekers, and other users.

(4) (a) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall coordinate development and maintenance of the website under this section with the executive director of the Agency for State Technology to ensure compatibility with the state's information system strategy and enterprise architecture.

(b) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may enter into an agreement with the Agency for State Technology, the Department of Economic Opportunity, or any other public agency with the requisite information technology expertise for the provision of design, operating, or other technological services necessary to develop and maintain the website.

(c) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may procure services necessary to implement this section, if it employs competitive processes, including requests for proposals, competitive negotiation, and other competitive processes to ensure that the procurement results in the most cost-effective investment of state funds.

(5) In furtherance of the requirements of this section that the website promote and market the information technology industry by communicating information on the scope of the industry in this state, CareerSource Florida, Inc. ~~Workforce~~

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~~Florida, Inc.~~, shall coordinate its efforts with the high-technology industry marketing efforts of Enterprise Florida, Inc., under s. 288.911. Through links or actual content, the website developed under this section shall serve as a forum for distributing the marketing campaign developed by Enterprise Florida, Inc., under s. 288.911. In addition, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall solicit input from the not-for-profit corporation created to advocate on behalf of the information technology industry as an outgrowth of the Information Service Technology Development Task Force created under chapter 99-354, Laws of Florida.

(6) In fulfilling its responsibilities under this section, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may enlist the assistance of and act through the Department of Economic Opportunity. The department is authorized and directed to provide the services that CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the department consider necessary to implement this section.

Section 47. Section 445.048, Florida Statutes, is amended to read:

445.048 Passport to Economic Progress program.—

(1) AUTHORIZATION.—Notwithstanding any law to the contrary, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, in conjunction with the Department of Children and Families and the Department of Economic Opportunity, shall implement a Passport to Economic Progress program consistent with the provisions of this section. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may designate regional workforce boards to participate in the program. Expenses for the program may come from appropriated

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revenues or from funds otherwise available to a regional workforce board which may be legally used for such purposes. CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, must consult with the applicable regional workforce boards and the applicable local offices of the Department of Children and Families which serve the program areas and must encourage community input into the implementation process.

(2) WAIVERS.—If CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, in consultation with the Department of Children and Families, finds that federal waivers would facilitate implementation of the program, the department shall immediately request such waivers, and CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives if any refusal of the federal government to grant such waivers prevents the implementation of the program. If CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, finds that federal waivers to provisions of the Food Assistance Program would facilitate implementation of the program, the Department of Children and Families shall immediately request such waivers in accordance with s. 414.175.

(3) TRANSITIONAL BENEFITS AND SERVICES.—In order to assist them in making the transition to economic self-sufficiency, former recipients of temporary cash assistance participating in the passport program shall be eligible for the following benefits and services:

(a) Notwithstanding the time period specified in s. 445.030, transitional education and training support services as specified in s. 445.030 for up to 4 years after the family is no

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longer receiving temporary cash assistance;

(b) Notwithstanding the time period specified in s. 445.031, transitional transportation support services as specified in s. 445.031 for up to 4 years after the family is no longer receiving temporary cash assistance; and

(c) Notwithstanding the time period specified in s. 445.032, transitional child care as specified in s. 445.032 for up to 4 years after the family is no longer receiving temporary cash assistance.

All other provisions of ss. 445.030, 445.031, and 445.032 ~~shall~~ apply to such individuals, as appropriate. This subsection does not constitute an entitlement to transitional benefits and services. If funds are insufficient to provide benefits and services under this subsection, the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or its agent, may limit such benefits and services or otherwise establish priorities for the provisions of such benefits and services.

(4) INCENTIVES TO ECONOMIC SELF-SUFFICIENCY.—

(a) The Legislature finds that:

1. There are former recipients of temporary cash assistance and families who are eligible for temporary assistance for needy families who are working full time but whose incomes are below 200 percent of the federal poverty level.

2. Having incomes below 200 percent of the federal poverty level makes such individuals particularly vulnerable to reliance on public assistance despite their best efforts to achieve or maintain economic independence through employment.

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3. It is necessary to implement a performance-based program that defines economic incentives for achieving specific benchmarks toward self-sufficiency while the individual is working full time.

(b) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, in cooperation with the Department of Children and Families and the Department of Economic Opportunity, shall offer performance-based incentive bonuses as a component of the Passport to Economic Progress program. The bonuses do not represent a program entitlement and are ~~shall be~~ contingent on achieving specific benchmarks prescribed in the self-sufficiency plan. If the funds appropriated for this purpose are insufficient to provide this financial incentive, the board of directors of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may reduce or suspend the bonuses in order not to exceed the appropriation or may direct the regional boards to use resources otherwise given to the regional workforce to pay such bonuses if such payments comply with applicable state and federal laws.

(c) To be eligible for an incentive bonus under this subsection, an individual must:

1. Be a former recipient of temporary cash assistance who last received such assistance on or after January 1, 2000, or be part of a family that is eligible for temporary assistance for needy families;

2. Be employed full time, which for the purposes of this subsection means employment averaging at least 32 hours per week, until the United States Congress enacts legislation reauthorizing the Temporary Assistance for Needy Families block grant and, after the reauthorization, means employment complying

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with the employment requirements of the reauthorization; and

3. Have an average family income for the 6 months preceding the date of application for an incentive bonus which is less than 200 percent of the federal poverty level.

(5) EVALUATIONS AND RECOMMENDATIONS.—CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, in conjunction with the Department of Children and Families, the Department of Economic Opportunity, and the regional workforce boards, shall conduct a comprehensive evaluation of the effectiveness of the program operated under this section. Evaluations and recommendations for the program shall be submitted by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, as part of its annual report to the Legislature.

(6) CONFLICTS.—If there is a conflict between the implementation procedures described in this section and federal requirements and regulations, federal requirements and regulations shall control.

Section 48. Subsections (6), (8), (11), and (13) of section 445.051, Florida Statutes, are amended to read:

445.051 Individual development accounts.—

(6) CareerSource Florida, Inc. ~~The Workforce Florida, Inc.~~, shall establish procedures for regional workforce boards to include in their annual program and financial plan an application to offer an individual development account program as part of their TANF allocation. These procedures must ~~shall~~ include, but need not be limited to, administrative costs permitted for the fiduciary organization and policies relative to identifying the match ratio and limits on the deposits for which the match will be provided in the application process.

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CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish policies and procedures ~~that are~~ necessary to ensure that funds held in an individual development account are not withdrawn except for one or more of the qualified purposes described in this section.

(8) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish procedures for controlling the withdrawal of funds for uses other than qualified purposes, including specifying conditions under which an account must be closed.

(11) Financial institutions approved by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may establish individual development accounts pursuant to this section. A financial institution shall certify the establishment of the individual development accounts in accordance with the forms, documentation, and requirements prescribed by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~

(13) Pursuant to policy direction by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the Department of Economic Opportunity shall adopt such rules as are necessary to implement this act.

Section 49. Subsection (2), paragraph (e) of subsection (3), and subsection (4) of section 445.055, Florida Statutes, are amended to read:

445.055 Employment advocacy and assistance program targeting military spouses and dependents.—

(2) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish an employment advocacy and assistance program targeting military spouses and dependents. This program shall deliver employment assistance services through military family

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employment advocates colocated within selected one-stop career centers. Persons eligible for assistance through this program ~~shall~~ include spouses and dependents of active duty military personnel, Florida National Guard members, and military reservists.

(3) Military family employment advocates are responsible for providing the following services and activities:

(e) Other employment assistance services CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, deems necessary.

(4) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, may enter into agreements with public and private entities to provide services authorized under this section.

Section 50. Section 446.41, Florida Statutes, is amended to read:

446.41 Legislative intent with respect to rural workforce training and development; establishment of Rural Workforce Services Program.—In order that the state may achieve its full economic and social potential, consideration must be given to rural workforce training and development to enable those living in its rural areas ~~citizens as well as urban citizens~~ to develop their maximum capacities and participate productively in our society. It is, therefore, the policy of the state to make available those services needed to assist individuals and communities in rural areas to improve their quality of life. It is with a great sense of urgency that a Rural Workforce Services Program is established within the Department of Economic Opportunity, under the direction of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, to provide equal access to all manpower training programs available to rural as well as urban areas.

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Section 51. Paragraph (a) of subsection (3) of section 446.50, Florida Statutes, is amended to read:

446.50 Displaced homemakers; multiservice programs; report to the Legislature; Displaced Homemaker Trust Fund created.—

(3) POWERS AND DUTIES OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY.—

(a) The Department of Economic Opportunity, under plans established by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall establish, or contract for the establishment of, programs for displaced homemakers which shall include:

1. Job counseling, by professionals and peers, specifically designed for a person entering the job market after a number of years as a homemaker.

2. Job training and placement services, including:

a. Training programs for available jobs in the public and private sectors, taking into account the skills and job experiences of a homemaker and developed by working with public and private employers.

b. Assistance in locating available employment for displaced homemakers, some of whom could be employed in existing job training and placement programs.

c. Utilization of the services of the state employment service in locating employment opportunities.

3. Financial management services providing information and assistance with respect to insurance, including, but not limited to, life, health, home, and automobile insurance, and taxes, estate and probate problems, mortgages, loans, and other related financial matters.

4. Educational services, including high school equivalency

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degree and such other courses ~~that as~~ the department determines would be of interest and benefit to displaced homemakers.

5. Outreach and information services with respect to federal and state employment, education, health, and reemployment assistance programs that the department determines would be of interest and benefit to displaced homemakers.

Section 52. Paragraph (a) of subsection (4) of section 1003.491, Florida Statutes, is amended to read:

1003.491 Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to provide a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.

(4) The State Board of Education shall establish a process for the continual and uninterrupted review of newly proposed core secondary courses and existing courses requested to be considered as core courses to ensure that sufficient rigor and relevance is provided for workforce skills and postsecondary education and aligned to state curriculum standards.

(a) The review of newly proposed core secondary courses shall be the responsibility of a curriculum review committee whose membership is approved by CareerSource Florida, Inc. The membership of the committee ~~Workforce Florida, Inc.,~~ and shall include:

1. Three certified high school counselors recommended by the Florida Association of Student Services Administrators.

2. Three assistant superintendents for curriculum and instruction, recommended by the Florida Association of District

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School Superintendents, ~~and~~ who serve in districts that operate successful career and professional academies pursuant to s. 1003.492 or a successful series of courses that lead to industry certification. Committee members in this category shall employ the expertise of appropriate subject area specialists in the review of proposed courses.

3. Three workforce representatives recommended by the Department of Economic Opportunity.

4. Three admissions directors of postsecondary institutions accredited by the Southern Association of Colleges and Schools, representing both public and private institutions.

5. The Commissioner of Education, or his or her designee, who is responsible for K-12 curriculum and instruction and ~~The commissioner~~ shall employ the expertise of appropriate subject area specialists in the review of proposed courses.

Section 53. Subsections (3), (4), and (5) of section 1003.492, Florida Statutes, are amended to read:

1003.492 Industry-certified career education programs.—

(3) The State Board of Education shall use the expertise of CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~ and the Department of Agriculture and Consumer Services to develop and adopt rules pursuant to ss. 120.536(1) and 120.54 for implementing an industry certification process.

(a) For nonfarm occupations, industry certification must ~~shall~~ be based upon the highest available national standards for specific industry certification to ensure student skill proficiency and to address emerging labor market and industry trends. A regional workforce board or a school principal may apply to CareerSource Florida, Inc. ~~Workforce Florida, Inc.,~~ to

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request additions to the approved list of industry certifications based on high-skill, high-wage, and high-demand job requirements in the regional economy.

(b) For farm occupations submitted pursuant to s. 570.07, industry certification ~~must shall~~ demonstrate student skill proficiency and be based upon the best available data to address critical local or statewide economic needs.

(4) The list of industry certifications approved by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the Department of Agriculture and Consumer Services, and the Department of Education shall be published and updated annually by a date certain, to be included in the adopted rule.

(5) The Department of Education shall collect student achievement and performance data in industry-certified career education programs and career-themed courses and shall work with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, and the Department of Agriculture and Consumer Services in the analysis of collected data. The data collection and analyses shall examine the performance of participating students over time. Performance factors ~~must shall~~ include, but need not be limited to, graduation rates, retention rates, Florida Bright Futures Scholarship awards, additional educational attainment, employment records, earnings, industry certification, return on investment, and employer satisfaction. The results of this study shall be submitted to the President of the Senate and the Speaker of the House of Representatives annually by December 31.

Section 54. Subsection (6) of section 1003.493, Florida Statutes, is amended to read:

1003.493 Career and professional academies and career-

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themed courses.-

(6) CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall serve in an advisory role and offer technical assistance in the development and deployment of newly established career and professional academies and career-themed courses.

Section 55. Paragraph (b) of subsection (2) of section 1003.51, Florida Statutes, is amended to read:

1003.51 Other public educational services.-

(2) The State Board of Education shall adopt rules articulating expectations for effective education programs for students in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice prevention, day treatment, residential, and detention programs. The rule shall establish policies and standards for education programs for students in Department of Juvenile Justice programs and shall include the following:

(b) The responsibilities of the Department of Education, the Department of Juvenile Justice, CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, district school boards, and providers of education services to students in Department of Juvenile Justice programs.

Section 56. Subsection (23) of section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.-

(23) The Department of Juvenile Justice and the Department of Education, in consultation with CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, the statewide Workforce Development Youth Council, district school boards, Florida College System

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institutions, providers, and others, shall jointly develop a multiagency plan for CAPE which describes the funding, curriculum, transfer of credits, goals, and outcome measures for career education programming in juvenile commitment facilities, pursuant to s. 985.622. The plan must be reviewed annually.

Section 57. Paragraph (g) of subsection (2) of section 1004.015, Florida Statutes, is amended to read:

1004.015 Higher Education Coordinating Council.—

(2) Members of the council shall include:

(g) The president of CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, or his or her designee.

Section 58. Subsection (8) of section 1011.80, Florida Statutes, is amended to read:

1011.80 Funds for operation of workforce education programs.—

(8) The State Board of Education and CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall provide the Legislature with recommended formulas, criteria, timeframes, and mechanisms for distributing performance funds. The commissioner shall consolidate the recommendations and develop a consensus proposal for funding. The Legislature shall adopt a formula and distribute the performance funds to the State Board of Education for Florida College System institutions and school districts through the General Appropriations Act. These recommendations shall be based on formulas that would discourage low-performing or low-demand programs and encourage through performance-funding awards:

(a) Programs that prepare people to enter high-wage occupations identified by the Workforce Estimating Conference

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created by s. 216.136 and other programs as approved by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~. At a minimum, performance incentives shall be calculated for adults who reach completion points or complete programs that lead to specified high-wage employment and to their placement in that employment.

(b) Programs that successfully prepare adults who are eligible for public assistance, economically disadvantaged, disabled, not proficient in English, or dislocated workers for high-wage occupations. At a minimum, performance incentives shall be calculated at an enhanced value for the completion of adults identified in this paragraph and job placement of such adults upon completion. In addition, adjustments may be made in payments for job placements for areas of high unemployment.

(c) Programs that are specifically designed to be consistent with the workforce needs of private enterprise and regional economic development strategies, as defined in guidelines set by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~ CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, shall develop guidelines to identify such needs and strategies based on localized research of private employers and economic development practitioners.

(d) Programs identified by CareerSource Florida, Inc. ~~Workforce Florida, Inc.~~, as increasing the effectiveness and cost efficiency of education.

Section 59. Subsections (2) and (3) of section 1011.801, Florida Statutes, are amended to read:

1011.801 Workforce Development Capitalization Incentive Grant Program.—The Legislature recognizes that the need for school districts and Florida College System institutions to be

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 2901 able to respond to emerging local or statewide economic
 2902 development needs is critical to the workforce development
 2903 system. The Workforce Development Capitalization Incentive Grant
 2904 Program is created to provide grants to school districts and
 2905 Florida College System institutions on a competitive basis to
 2906 fund some or all of the costs associated with the creation or
 2907 expansion of workforce development programs that serve specific
 2908 employment workforce needs.

(2) The State Board of Education shall accept applications
 2910 from school districts or Florida College System institutions for
 2911 workforce development capitalization incentive grants.
 2912 Applications from school districts or Florida College System
 2913 institutions shall contain projected enrollments and projected
 2914 costs for the new or expanded workforce development program. The
 2915 State Board of Education, in consultation with CareerSource
 2916 Florida, Inc. ~~the Workforce Florida, Inc.~~, shall review and rank
 2917 each application for a grant according to subsection (3) and
 2918 shall submit to the Legislature a list in priority order of
 2919 applications recommended for a grant award.

(3) The State Board of Education shall give highest
 2921 priority to programs that train people to enter high-skill,
 2922 high-wage occupations identified by the Workforce Estimating
 2923 Conference and other programs approved by CareerSource Florida,
 2924 Inc. ~~Workforce Florida, Inc.~~; programs that train people to
 2925 enter occupations under the welfare transition program; or
 2926 programs that train for the workforce adults who are eligible
 2927 for public assistance, economically disadvantaged, disabled, not
 2928 proficient in English, or dislocated workers. The State Board of
 2929 Education shall consider the statewide geographic dispersion of

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 2930 grant funds in ranking the applications and shall give priority
 2931 to applications from education agencies that are making maximum
 2932 use of their workforce development funding by offering high-
 2933 performing, high-demand programs.

2934 Section 60. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Education Pre-K - 12, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Children, Families, and Elder Affairs

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR NANCY C. DETERT

28th District

April 2, 2015

The Honorable Anitere Flores
Chair
Senate Fiscal Policy Committee
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Madame Chair:

Thank you for hearing my bill in Fiscal Policy today. I need to be in the Senate Children, Families, and Elder Affairs Committee at 11:30 a.m. In the event that I am unable to get to your committee in time, I respectfully request that you allow my aide, Charlie Anderson, to present my SB 7002 – Renaming Workforce Florida, Inc. to your committee.

I appreciate your consideration of this request.

Sincerely,

A handwritten signature in cursive script, reading "Nancy C. Detert".

Nancy C. Detert

NCD/ca

cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

- ☐ 417 Commercial Court, Suite D, Venice, Florida 34292 (941) 480-3547 FAX: (941) 480-3549
- ☐ 416 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5028

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 102

INTRODUCER: Fiscal Policy Committee; Judiciary Committee; and Senator Hukill and others

SUBJECT: Digital Assets

DATE: April 2, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Fav/CS
2.	Jones	Hrdlicka	FP	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 102 is a state adaptation of the Uniform Fiduciary Access to Digital Assets Act. The model law was developed by the Uniform Law Commission which is also known as the National Conference of Commissioners on Uniform State Laws. The bill vests personal representatives of a decedent, guardians, agents under a power of attorney, and trustees with the ability to access the digital assets of an account holder as if these fiduciaries were the account holder. Digital assets include electronic communications and records such as emails, text messages, online photographs, documents stored on the cloud, electronic bank statements, and other electronic communications or records.

The bill expressly states that the fiduciaries are authorized users for purposes of criminal laws that would otherwise prohibit the unauthorized access to electronic accounts. For purposes of privacy laws prohibiting email service providers and similar entities from disclosing an account holder's records without the account holder's consent, the bill provides that the fiduciaries are deemed to have the lawful consent of the account holders.

II. Present Situation:

Technology has dramatically transformed how people communicate, receive and store information, and transact business. Before the Internet was developed, most information and correspondence existed in tangible forms. The news was printed on paper and delivered by the paperboy, correspondence was delivered by the postal carrier to mailboxes, and music was

played from vinyl records. To retain items, photographs were glued into photo albums and correspondence was filed in metal filing cabinets.¹ When someone died or became incapacitated, most of his or her personal information could be located by a family member, personal representative, or guardian who sifted through the paper records in the person's home. Incoming mail would eventually divulge where the person banked and what bills needed to be paid. The quest to identify and access someone's assets, however, is changing with the advent of digital communications.

Many assets that once existed in a tangible form are being replaced by digital assets² that are intangible and not readily discoverable or accessible. Substantial amounts of valuable electronic data and digital assets are acquired and stored in cell phones, laptops, personal computers, online accounts, and other devices.³ Accordingly, a family member or personal representative often faces substantial challenges when trying to identify, locate, or access the online accounts and digital assets of a deceased or incapacitated person. One recent report stated that millions of Internet accounts "belong" to deceased people.⁴

Upon an account holder's death or incapacity, how does someone in a fiduciary⁵ relationship identify and locate that person's digital assets? Who then has control or ownership? How is an account accessed when no one has the decedent's password? Does the original terms-of-service agreement control whether a successor may gain access to an account?

Resolution of these legal issues is pitting the fiduciary's duty to identify and access the digital assets against the Internet service provider's duty to protect the original account holder's privacy interest and not illegally divulge information that could be a violation of state and federal computer security laws. Few laws exist that address the rights that fiduciaries have over digital assets.⁶ An additional barrier exists in the conditions of the terms-of-service agreement that the original account holder agreed to when initiating a contract with the service provider.

¹ The National Conference of Commissioners on Uniform State Laws, *Legislative Fact Sheet – Fiduciary Access to Digital Assets*, available at [http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Fiduciary Access to Digital Assets](http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Fiduciary%20Access%20to%20Digital%20Assets) (last visited Mar. 27, 2015).

² Some examples of digital assets are e-mail, photos, projects, online bank accounts, personal records, digital music, entertainment, presentations, domain names, intellectual property, and client lists. The assets are generally important because of their sentimental or financial value.

³ James D. Lamm, *Digital Passing: Estate Planning for Passwords and Digital Property*, *Video Clip: Family Wants Access to Son's Digital Data After Death* (Sept. 10, 2014), available at <http://www.digitalpassing.com/2014/09/10/video-clip-family-access-sons-digital-data-death/> (last visited Mar. 27, 2015).

⁴ The Real Property, Probate, & Trust Law Section of The Florida Bar, *White Paper: Proposed Enactment of Chapter 740, Florida Statutes* (2014), available at [https://www.floridabar.org/TFB/TFBResources.nsf/Attachments/1A94028AE74D00F385257D4D00639349/\\$FILE/9_15_14_White%20Paper%20Proposed%20Enactment.pdf?OpenElement](https://www.floridabar.org/TFB/TFBResources.nsf/Attachments/1A94028AE74D00F385257D4D00639349/$FILE/9_15_14_White%20Paper%20Proposed%20Enactment.pdf?OpenElement) (last visited Mar. 27, 2015).

⁵ A fiduciary is defined as someone who owes to another person a duty to act in good faith and trust. BLACK'S LAW DICTIONARY (9th ed. 2009).

⁶ The National Conference of Commissioners on Uniform State Laws, *Uniform Fiduciary Access to Digital Assets Act* (June 6, 2014) available at http://www.uniformlaws.org/shared/docs/Fiduciary%20Access%20to%20Digital%20Assets/2014am_ufadaa_draft.pdf (last visited Mar. 27 2015).

Criminal Laws

Federal Law

Federal and state laws prohibit the unauthorized access of both computer systems and certain types of protected data. The most relevant federal laws, passed in 1986, are the Stored Communications Act⁷ and the Computer Fraud and Abuse Act.⁸ The Stored Communications Act, which is part of the Electronic Communications Privacy Act,⁹ establishes privacy rights and prohibits certain electronic communication services or remote computing services from knowingly divulging the contents of certain electronic communications and files.¹⁰ These privacy protections are viewed by some as being substantial barriers for family members and fiduciaries who seek to access the contents of a deceased or incapacitated user's online accounts. The service providers see them as restrictions on their ability to disclose electronic communications to anyone, unless certain exceptions are met. The service providers reasoning is that, if the Stored Communications Act applies, the online account service provider is prohibited by law from disclosing the contents of the communications and files.¹¹

The Computer Fraud and Abuse Act is a computer security law that prohibits conduct that victimizes computer systems. The law is designed to protect computers in which there is a federal interest and shields them from certain threats and forms of espionage and from being corruptly used as vehicles to commit fraud.¹² The law imposes penalties for the unauthorized access of stored data, devices, and computer hardware.¹³ The U.S. Department of Justice has stated that the Computer Fraud and Abuse Act is broad enough in scope to permit the federal government to prosecute someone if the person exceeds his or her authorized access by violating the access terms of a web site's terms-of-service agreement or usage policies.¹⁴

State Law

Two chapters in the *Florida Statutes* address computer related crimes and the security of communications and are modeled after the Stored Communications Act. Chapter 815, F.S., is the "Florida Computer Crimes Act" and ch. 934, F.S., is entitled "Security of Communications; Surveillance." Neither chapter addresses the ability of a fiduciary to legally access, duplicate, or control digital assets.¹⁵

⁷ 18 U.S.C. s. 2701 *et seq.*

⁸ 18 U.S.C. s. 1030 *et seq.*

⁹ 18 U.S.C. s. 2510 *et seq.*

¹⁰ James D. Lamm, Digital Passing: *Your Client is Six Feet Under, But His Data is in the Cloud*, Nov. 2014 available at <http://www.digitalpassing.com/wordpress/wp-content/uploads/2013/02/James-Lamm-Digital-Death-1-17-2013.pdf> (last visited Mar. 27, 2015).

¹¹ *Id.*

¹² Charles Doyle, Congressional Research Service, *Cybercrime: A Sketch of 18 U.S.C. 1030 and Related Federal Criminal Laws*, RS20830 (Oct. 15, 2014).

¹³ William Bissett and David Kauffman, *Surf the Evolving Web of Laws Affecting Digital Assets*, 41 Estate Planning No. 4 (Apr. 2014), available at <http://www.inknowvision.com/newsletters/July2014.pdf> (last visited Mar. 27, 2015).

¹⁴ Lamm, *supra* note 10, at 10.

¹⁵ *Supra* note 4.

Terms-of-Service Agreements

Terms-of-service agreements, the conditions controlling the relationship between the account holder and the service provider, are not uniform among Internet service providers. While some Internet service providers publish explicit policies detailing what will occur to digital assets when an individual dies, other providers do not. Some providers' policies state that upon the death of the account holder, the account will terminate, thereby prohibiting access to the account by anyone. Providers often publish their policies in the terms-of-service agreements, but the terms are frequently ignored as readers quickly move past the language to progress to the end of the document.

Model Uniform Law

Since 2007, nine states have enacted varying forms of laws aimed to give fiduciaries access to decedents' digital assets. Believing that legislation was needed to ensure that account holders or their guardians retain control of digital property, the Uniform Law Commission developed and adopted the Uniform Fiduciary Access to Digital Assets Act in July, 2014, to address these issues.¹⁶ The Real Property, Probate and Trust Law Section (RPPTL) of The Florida Bar has modified the uniform law and drafted Florida specific legislation to enable fiduciaries to access the digital assets of decedents, wards, principals, and settlors of a trust who are or were, prior to death, residents of Florida.¹⁷

III. Effect of Proposed Changes:

Purpose (Sections 1 & 2)

The bill creates the "Florida Fiduciary Access to Digital Assets Act." According to the RPPTL of The Florida Bar, the goal of the act is two-fold:

- To remove barriers that impede a fiduciary's ability to access electronic communications and records; and
- Leave unchanged any existing law governing fiduciary, probate, trust, banking, security, and agency law.¹⁸

Limited Application

According to the RPPTL, the act is limited in its scope and applies only to fiduciaries who are already bound to act in compliance with their fiduciary duties and powers.¹⁹ The act does not extend to family members or other people who seek access to the digital assets unless they are

¹⁶ According to its website, the Uniform Law Commission was established in 1892 and is made up of lawyers who are appointed by state governments. Its purpose is to research, draft, and promote the enactment of non-partisan uniform state legislation. The commission began meeting in 2012 to develop the Uniform Fiduciary Access to Digital Assets Act. Available at [http://www.uniformlawcommission.com/Narrative.aspx?title=About the ULC](http://www.uniformlawcommission.com/Narrative.aspx?title=About%20the%20ULC) (last visited Mar. 27, 2015).

¹⁷ NCSL, *Access to Digital Assets of Decedents: Overview*, (Nov. 11, 2014) available at <http://www.ncsl.org/research/telecommunications-and-information-technology/access-to-digital-assets-of-decedents.aspx> (last visited Mar. 26, 2015).

¹⁸ *Supra* note 4.

¹⁹ *Id.*

also fiduciaries. Moreover, the ability of a fiduciary to access a digital asset does not entitle the fiduciary to own the asset or make transactions with the asset.

The act is further limited by the definition of “digital assets.” The act’s only application is to an electronic record, which includes electronic communications, and does not apply to the underlying asset or liability unless the asset or liability is itself an electronic record.

Definitions (Section 3)

The bill creates s. 740.101, F.S., to define 24 terms used in the act. The majority of those terms are found in the Florida Probate Code and the Florida Powers of Attorney Act, while others are adapted from federal statutes or the Uniform Fiduciary Access to Digital Assets Act.²⁰ Some of the most frequently used terms in this act are listed below.

An “account holder” is defined as a person who has entered into a terms-of-service agreement with a custodian or a fiduciary for that person. The term also includes a deceased person who entered into the agreement during the person’s lifetime. This definition allows the fiduciary to step into the shoes of the original account holder.

“Catalogue of electronic communications” means information that identifies each person with which an account holder has had an electronic communication, the time and date of the communication, and the electronic address of the person. In lay terms, this is considered to be what is on the “outside of an envelope.”

“Content of an electronic communication” is defined to mean information concerning the substance or meaning of the communication which:

- Has been sent or received by the account holder;
- Is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and
- Is not readily accessible to the public.

In lay terms, this is generally understood to be the “inside of an envelope” or the subject line of an e-mail, the body of an e-mail or attachment, or the body of other types of electronic communications that are protect by the Stored Communications Act.²¹

A “custodian” is defined as a person that carries, maintains, processes, receives, or stores a digital asset of an account holder.

²⁰ *Id.* at 4-7.

²¹ According to James Lamm, an expert in this area of law, the Stored Communications Act does not protect the content of all electronic communications, and the Stored Communications Act does not protect all records held in electronic storage by storage providers. The Stored Communications Act protects the content of an electronic communication only if the content is held in electronic storage by a service provider, the service provider holding the content provides an electronic communication service or remote computing service to the public, and access to the content is restricted in a manner so that it is not completely public. *See supra* note 10 at 13.

A “digital asset” is defined as an electronic record but does not include the underlying asset or liability unless the asset or liability is an electronic record.

“Electronic communication” has the same meaning as that provided in 18 U.S.C. s. 2510(12). It means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce. It does not include any wire or oral communication; any communication made through a tone-only paging device; any communication from a tracking device²²; or electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

“Electronic communication service” means a custodian that provides to an account holder the ability to send or receive an electronic communication. An example of this would be Internet service providers.

A “remote computing service” means a custodian that provides to an account holder computer processing services or the storage of digital assets by means of an electronic communications system.²³

Four Types of Fiduciaries Covered (Sections 4-7)

Under the bill, a fiduciary who is authorized to access another’s digital assets must be a personal representative of a decedent, a guardian of a ward, an agent for a principal under a power of attorney, or a trustee of a trust. The authority applies whether the fiduciary is the original, additional, or successor fiduciary.

In essence, the bill provides that the fiduciary steps into the shoes of the person he or she is representing through this grant of authority to manage their digital assets.

Authority of a Personal Representative Over a Decedent’s Digital Assets (Section 4, creating s. 740.201, F.S.)

Unless the court or will of the decedent provides differently, a personal representative has the right to access the content of an electronic communication that the custodian is permitted to disclose under federal law, the catalogue of electronic communications sent or received by the decedent, and any other digital asset in which the decedent had a right or interest at the time of death.

Authority of a Guardian Over a Ward’s Digital Assets (Section 5, creating s. 740.301, F.S.)

The default position for a guardian is the opposite of that of a personal representative. The guardian has no right of access unless a court rules otherwise. If the court determines, after a hearing, to grant access to the guardian, the guardian has the right to access the same three

²² A tracking device is an electronic or mechanical device that permits the tracking of a person or object. 18 U.S.C. s. 3117(b).

²³ An electronic communications system is any service that provides users the ability to send or receive wire or electronic communications. 18 U.S.C. s. 2510(14).

categories discussed above involving the content, catalogue, and other digital assets pertaining to the ward.

Authority of an Agent Over a Principal's Digital Assets (Section 6, creating s. 740.401, F.S.)

The agent receives his or her authority over a principal's assets to the extent the principal expressly authorizes that grant through a power of attorney. If the authority is given, the agent has the right of access, to the extent provided, to the content of an electronic communication that the custodian is permitted to disclose under federal law. However, this provision is limited by s. 740.601(2), F.S., which is created by the bill. Section 740.601(2), F.S., allows an account holder, after June 30, 2015, to limit a fiduciary's access by an affirmative act separate from his or her assent to other provisions of the terms-of-service agreement. An agent also has the right to access the catalogue of electronic communications sent or received by the principal and any other digital asset in which the principal has a right or interest, unless otherwise established by a power of attorney or court order.

Control by a Trustee of Digital Assets (Section 7, creating 740.501, F.S.)

Section 7 of the bill, regarding the control of digital assets by a trustee, is structured slightly different than the provisions relating to other types of fiduciaries. The bill makes distinctions between a trustee who is an original account holder and a trustee who is not an original account holder.

Unless it is otherwise provided by the court or the terms of the trust:

- A trustee or a successor of a trustee who is an original account holder has the right to access each digital asset held in trust, including any catalogue of electronic communications sent or received and the content of an electronic communication; or
- A trustee or successor of a trustee who is not an original account holder has the right to access the content of the settlor's electronic communications that the custodian is permitted to disclose under federal law, the catalogue of electronic communications, and any other digital asset in which the account holder of any successor account holder has a right of interest.

These provisions are also limited by s. 740.601(2), F.S., which allows an account holder, after June 30, 2015, to limit a fiduciary's access by an affirmative act separate from his or her assent to other provisions of the terms-of-service agreement.

A Fiduciary's Access and Authority Over the Digital Assets (Section 8)

The bill creates s. 740.601(1), F.S., to establish the fiduciary's access to, and authority over, the digital assets of the account holder. The fiduciary remains subject to the duties and obligations of existing law and is liable if a breach of those duties occurs. If an asset was illegally obtained by the account holder, the fiduciary does not have any power over that asset.²⁴

²⁴ *Supra* note 4 at 9-10.

The section provides that a fiduciary that is an account holder or has the right to access a digital asset:

- May take any action regarding the digital asset to the extent the account holder had that authority, subject to terms-of-service agreement and copyright laws;
- Has, for the purpose of privacy laws, the consent of the account holder for the custodian to divulge the content of an electronic communication; and
- Is an authorized user under applicable computer fraud and unauthorized access laws. By defining the fiduciary as an authorized user, this section clarifies that the fiduciary is legally authorized to access the digital information and is not in violation of the federal or state laws prohibiting unauthorized access.²⁵

Terms-of-Service Agreements and Access to Tangible Personal Property (Section 8)

However s. 740.601(2), F.S., addresses limits on a fiduciary's access. If a terms-of-service agreement limits a fiduciary's access to a digital asset of an account holder, the bill declares the provision as against the public policy of the state unless the account holder agrees, after June 30, 2015, to limit a fiduciary's access by an affirmative act separate from his or her assent to other provisions of the terms-of-service agreement. Thus, under the bill, account holders effectively consent to the disclosure of their digital assets to a fiduciary unless they affirmatively act to opt out of disclosing their digital assets. This section also provides that a fiduciary's access to digital assets does not violate the terms-of-service agreement even if the agreement requires notice of a change in the account holder's status.

Section 740.601(3), F.S., addresses choice-of-law provisions in terms-of-service agreements by declaring that a choice-of-law provision is unenforceable if the provision designates a law that limits a fiduciary's access to a digital asset.

Section 740.601(4), F.S., provides that the fiduciary has the right to access the decedent's, ward's, principal's, or settlor's tangible personal property, such as a computer or cell phone, that receives, stores, processes, or sends digital assets and the digital assets stored on the device. The fiduciary is an authorized user for purposes of applicable computer fraud and unauthorized access laws.

Compliance (Sections 9 & 10)

Section 740.701, F.S., specifies procedures for a fiduciary to request access to, control of, or a copy of an account holder's digital assets, and requires the custodian comply with the fiduciary's request if:

- A personal representative having the right of access submits with the request a certified copy of the letters of administration or other specified document;
- A guardian having the right of access submits an accompanying certified copy of letters of plenary guardianship or a court order giving the guardian authority over the digital asset;
- An agent having the right of access submits with the request an original or copy of the power of attorney and a certification of the agent, under penalty of perjury, that the power of attorney is in effect;

²⁵ *Id* at 10.

- A trustee having the right of access submits a request accompanied by a certified copy of the trust instrument or a certification of trust authorizing the trustee to exercise authority over the digital asset; or
- A person entitled to receive and collect specified digital assets submits a request accompanied by a certified copy of an order of summary administration.

The custodian is required to comply with a request within 60 days after receipt of the request. If the custodian fails to comply, the fiduciary seek a court for an order directing compliance. A custodian who relies on a certification of trust and does not know that certain representations in the trust or amendments are incorrect is not liable for acting in reliance on those documents. However, if the custodian demands additional documentation regarding the trust or amendments, he or she is liable for damages if a court determines that the custodian did not act in good faith when demanding the trust instrument. This section does not limit the right of a person to obtain a copy of a trust instrument in a judicial proceeding concerning the trust.

As provided in s. 740.801, F.S., a custodian, its officers, employees and agents are immune from liability if it acts in good faith in compliance with the bill.

Electronic Signatures in Global and National Commerce Act (Section 11)

Section 740.901, F.S., establishes the relationship between this act and the Electronic Signatures in Global and National Commerce Act, noting where this act does and does not modify the federal law.

Application of the Bill (Section 12)

Section 740.911, F.S., provides that the power granted by the act to personal representatives, guardians, trustees, and agents applies to these fiduciaries regardless of whether their authority arose on, before, or after July 1, 2015, the effective date of the bill.²⁶ Additionally, the bill does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

Effective Date (Section 13)

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not affect counties and municipalities.

²⁶ By allowing the bill to apply retroactively to the digital assets of individuals who died or became incapacitated before the bill takes effect, the bill effectively assumes that given the choice, these individuals would not have acted to restrict access to their digital assets.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The federal preemption doctrine is a principle of law which holds that federal laws take precedence over state laws, and as such, states may not enact laws that are inconsistent with the federal law. Under the Electronic Communications Privacy Act, a service provider, with few exceptions, may not divulge the contents of a communication without the “lawful consent” of the originator, addressee, intended recipient or the subscriber.²⁷ There is no case law directly on point which explains whether a state statute can deem that a decedent, settlor, principal, or ward lawfully consents to the release of his or her communications to a fiduciary. Additionally, committee staff is not aware of any case law indicating whether a state statute can define who is an authorized user of an account for purposes of federal laws that prohibit the unauthorized access to certain electronic data. Thus, arguments exist that federal law preempts the access to digital assets authorized by the bill. However, fiduciaries are generally understood to stand in the shoes of those they represent and this bill seems consistent with the traditional functions of fiduciaries.

Notwithstanding the foregoing, the bill, because of its word choice, arguably might not conflict with federal law at all. Specifically, the bill provides fiduciaries with access to an account holder’s electronic communication *if* authorized by federal law. Thus, the bill could be read to reserve to the courts the duty of defining what access is authorized under federal law.

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

None.

B. Private Sector Impact:

This bill may help fiduciaries identify assets and bank accounts belonging to those who have died or become incapacitated. The custodians of digital assets, such as email service providers, however, will incur costs in reviewing requests for access to digital assets and then making those assets available

²⁷ 18 U.S.C. 2702(b)(3).

C. **Government Sector Impact:**

The fiscal impact on the courts indeterminate. However, the courts will likely see an increase in workload due to requests for access to electronic records and proceedings relating to conduct allegedly undertaken by custodians acting in bad faith.²⁸

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 740.001, 740.101, 740.201, 740.301, 740.401, 740.501, 740.601, 740.701, 740.801, 740.901, and 740.911.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

CS/CS by Fiscal Policy on April 2, 2015:

The CS adds a reference to 47 U.S.C. s. 222, which addresses telecommunications carriers and privacy of their customer information, as a limitation on what a custodian's may disclose of the content of an electronic communication to a personal representative, guardian, agent, or trustee.

CS by Judiciary on February 3, 2015:

The majority of the changes to the committee substitute were stylistic changes, not substantive changes.

The definition of “content of an electronic communication” was revised to include information which has been sent or received by the account holder and is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public.

The definition of “electronic communication” was modified to mirror the definition in 18 U.S.C. s. 2510(12) which is discussed above in the Effect of Proposed Changes section.

The definition of a “remote computing service” is changed to clarify that it means a custodian that provides computer processing services to an account holder, not the public. In sections 4, 5, 6, and 7, which establish the authority of the fiduciaries over the digital

²⁸ Office of the State Courts Administrator, *2015 Judicial Impact Statement for SB 102*, (February 10, 2015) (on file with the Senate Fiscal Policy Committee).

assets of the decedent, guardian, agent, and trust, language is simplified to reflect the revised definition of electronic communication from the U.S. Code.

B. Amendments:

None.

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



473040

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Hukill) recommended the following:

Senate Amendment

Delete line 144
and insert:
Communications Privacy Act, 18 U.S.C. s. 2702(b) or 47 U.S.C. s. 222;
Delete line 156
and insert:
Communications Privacy Act, 18 U.S.C. s. 2702(b) or 47 U.S.C. s. 222;



473040

11 Delete line 169
12 and insert:
13 the Electronic Communications Privacy Act, 18 U.S.C. s. 2702(b)
14 or 47 U.S.C. s. 222.
15 Delete line 194
16 and insert:
17 Communications Privacy Act, 18 U.S.C. s. 2702(b) or 47 U.S.C. s.
18 222; and

By the Committee on Judiciary; and Senators Hukill, Joyner, and Latvala

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1 A bill to be entitled
 2 An act relating to digital assets; providing a
 3 directive to the Division of Law Revision and
 4 Information; creating s. 740.001, F.S.; providing a
 5 short title; creating s. 740.101, F.S.; defining
 6 terms; creating s. 740.201, F.S.; authorizing a
 7 personal representative to have access to specified
 8 digital assets of a decedent under certain
 9 circumstances; creating s. 740.301, F.S.; authorizing
 10 a guardian to have access to specified digital assets
 11 of a ward under certain circumstances; creating s.
 12 740.401, F.S.; authorizing an agent to have access to
 13 specified digital assets of a principal under certain
 14 circumstances; creating s. 740.501, F.S.; authorizing
 15 a trustee to have access to specified digital assets
 16 held in trust under certain circumstances; creating s.
 17 740.601, F.S.; providing the rights of a fiduciary
 18 relating to digital assets; providing that specified
 19 provisions in a terms of service agreement are
 20 unenforceable or void as against the public policy of
 21 this state under certain circumstances; creating s.
 22 740.701, F.S.; providing requirements for compliance
 23 for a custodian, a personal representative, a
 24 guardian, an agent, a trustee, or another person that
 25 is entitled to receive and collect specified digital
 26 assets; providing for damages if a demand for the
 27 trust instrument is not made in good faith by a
 28 custodian; providing applicability; creating s.
 29 740.801, F.S.; providing immunity for a custodian and

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30 its officers, employees, and agents for any action
 31 done in good faith and in compliance with ch. 740,
 32 F.S.; creating s. 740.901, F.S.; clarifying the
 33 relationship of ch. 740, F.S., to the Electronic
 34 Signatures in Global and National Commerce Act;
 35 creating s. 740.911, F.S.; providing applicability;
 36 providing an effective date.

37
 38 Be It Enacted by the Legislature of the State of Florida:

39
 40 Section 1. The Division of Law Revision and Information is
 41 directed to create chapter 740, Florida Statutes, consisting of
 42 ss. 740.001-740.911, Florida Statutes, to be entitled "Fiduciary
 43 Access to Digital Assets."

44 Section 2. Section 740.001, Florida Statutes, is created to
 45 read:

46 740.001 Short title.—This chapter may be cited as the
 47 "Florida Fiduciary Access to Digital Assets Act."

48 Section 3. Section 740.101, Florida Statutes, is created to
 49 read:

50 740.101 Definitions.—As used in this chapter, the term:

51 (1) "Account holder" means a person that has entered into a
 52 terms-of-service agreement with a custodian or a fiduciary for
 53 such person. The term includes a deceased individual who entered
 54 into the agreement during the individual's lifetime.

55 (2) "Agent" means a person that is granted authority to act
 56 for a principal under a durable or nondurable power of attorney,
 57 whether denominated an agent, an attorney in fact, or otherwise.
 58 The term includes an original agent, a co-agent, and a successor

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59 agent.

60 (3) "Carry" means to engage in the transmission of
61 electronic communications.

62 (4) "Catalogue of electronic communications" means
63 information that identifies each person with which an account
64 holder has had an electronic communication, the time and date of
65 the communication, and the electronic address of the person.

66 (5) "Content of an electronic communication" means
67 information concerning the substance or meaning of the
68 communication which:

69 (a) Has been sent or received by the account holder;

70 (b) Is in electronic storage by a custodian providing an
71 electronic communication service to the public or is carried or
72 maintained by a custodian providing a remote computing service
73 to the public; and

74 (c) Is not readily accessible to the public.

75 (6) "Court" means a circuit court of this state.

76 (7) "Custodian" means a person that carries, maintains,
77 processes, receives, or stores a digital asset of an account
78 holder.

79 (8) "Digital asset" means an electronic record. The term
80 does not include an underlying asset or liability to which an
81 electronic record refers, unless the asset or liability is
82 itself an electronic record.

83 (9) "Electronic" means technology having electrical,
84 digital, magnetic, wireless, optical, electromagnetic, or
85 similar capabilities.

86 (10) "Electronic communication" has the same meaning as
87 provided in 18 U.S.C. s. 2510(12).

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88 (11) "Electronic communication service" means a custodian
89 that provides to an account holder the ability to send or
90 receive an electronic communication.

91 (12) "Fiduciary" means a person that is an original,
92 additional, or successor personal representative, guardian,
93 agent, or trustee.

94 (13) "Guardian" means a person who is appointed by the
95 court as guardian of the property of a minor or an incapacitated
96 individual. The term includes a person appointed by the court as
97 an emergency temporary guardian of the property.

98 (14) "Information" means data, text, images, videos,
99 sounds, codes, computer programs, software, databases, or the
100 like.

101 (15) "Person" means an individual, estate, trust, business
102 or nonprofit entity, public corporation, government or
103 governmental subdivision, agency, or instrumentality, or other
104 legal entity.

105 (16) "Personal representative" means the fiduciary
106 appointed by the court to administer the estate of a deceased
107 individual pursuant to letters of administration or an order
108 appointing a curator or administrator ad litem for the estate.

109 (17) "Power of attorney" means a record that grants an
110 agent authority to act in the place of a principal pursuant to
111 chapter 709.

112 (18) "Principal" means an individual who grants authority
113 to an agent in a power of attorney.

114 (19) "Record" means information that is inscribed on a
115 tangible medium or that is stored in an electronic or other
116 medium and is retrievable in perceivable form.

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(20) "Remote computing service" means a custodian that provides to an account holder computer processing services or the storage of digital assets by means of an electronic communications system as defined in 18 U.S.C. s. 2510(14).

(21) "Terms-of-service agreement" means an agreement that controls the relationship between an account holder and a custodian.

(22) "Trustee" means a fiduciary that holds legal title to a digital asset pursuant to an agreement, declaration, or trust instrument that creates a beneficial interest in the settlor or others.

(23) "Ward" means an individual for whom a guardian has been appointed.

(24) "Will" means an instrument admitted to probate, including a codicil, executed by an individual in the manner prescribed by the Florida Probate Code, which disposes of the individual's property on or after his or her death. The term includes an instrument that merely appoints a personal representative or revokes or revises another will.

Section 4. Section 740.201, Florida Statutes, is created to read:

740.201 Authority of personal representative over digital assets of a decedent.—Subject to s. 740.601(2) and unless otherwise provided by the court or the will of a decedent, a personal representative has the right to access:

(1) The content of an electronic communication that the custodian is permitted to disclose under the Electronic Communications Privacy Act, 18 U.S.C. s. 2702(b);

(2) The catalogue of electronic communications sent or

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received by the decedent; and

(3) Any other digital asset in which the decedent had a right or interest at his or her death.

Section 5. Section 740.301, Florida Statutes, is created to read:

740.301 Authority of guardian over digital assets of a ward.—The court, after an opportunity for hearing, may grant a guardian the right to access:

(1) The content of an electronic communication that the custodian is permitted to disclose under the Electronic Communications Privacy Act, 18 U.S.C. s. 2702(b);

(2) The catalogue of electronic communications sent or received by the ward; and

(3) Any other digital asset in which the ward has a right or interest.

Section 6. Section 740.401, Florida Statutes, is created to read:

740.401 Control by agent of digital assets.—

(1) To the extent that a power of attorney expressly grants an agent authority over the content of an electronic communication of the principal, and subject to s. 740.601(2), the agent has the right to access the content of an electronic communication that the custodian is permitted to disclose under the Electronic Communications Privacy Act, 18 U.S.C. s. 2702(b).

(2) Except as provided in subsection (1) and unless otherwise provided by a power of attorney or a court order, an agent has the right to access:

(a) The catalogue of electronic communications sent or received by the principal; and

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175 (b) Any other digital asset in which the principal has a
 176 right or interest.
 177 Section 7. Section 740.501, Florida Statutes, is created to
 178 read:
 179 740.501 Control by trustee of digital assets.—Subject to s.
 180 740.601(2) and unless otherwise provided by the court or the
 181 terms of a trust:
 182 (1) A trustee or a successor of a trustee who is an
 183 original account holder has the right to access each digital
 184 asset held in trust, including any catalogue of electronic
 185 communications sent or received and the content of an electronic
 186 communication; or
 187 (2) A trustee or a successor of a trustee who is not an
 188 original account holder has the right to access the following
 189 digital assets held in trust:
 190 (a) The catalogue of electronic communications sent or
 191 received by the account holder;
 192 (b) The content of an electronic communication that the
 193 custodian is permitted to disclose under the Electronic
 194 Communications Privacy Act, 18 U.S.C. s. 2702(b); and
 195 (c) Any other digital asset in which the account holder or
 196 any successor account holder has a right or interest.
 197 Section 8. Section 740.601, Florida Statutes, is created to
 198 read:
 199 740.601 Fiduciary access and authority.—
 200 (1) A fiduciary that is an account holder or that has the
 201 right under this chapter to access a digital asset of an account
 202 holder:
 203 (a) May take any action concerning the digital asset to the

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204 extent of the account holder's authority and the fiduciary's
 205 powers under the laws of this state, subject to the terms-of-
 206 service agreement and copyright or other applicable law;
 207 (b) Has, for the purpose of applicable electronic privacy
 208 laws, the lawful consent of the account holder for the custodian
 209 to divulge the content of an electronic communication to the
 210 fiduciary; and
 211 (c) Is an authorized user under applicable computer fraud
 212 and unauthorized access laws.
 213 (2) Unless an account holder, after June 30, 2015, agrees,
 214 by an affirmative act separate from the account holder's assent
 215 to other provisions of the terms of the service agreement, to a
 216 provision in the service agreement which limits a fiduciary's
 217 access to a digital asset of the account holder:
 218 (a) The provision is void as against the public policy of
 219 this state; and
 220 (b) The fiduciary's access under this chapter to a digital
 221 asset does not violate the terms of the service agreement even
 222 if the agreement requires notice of a change in the account
 223 holder's status.
 224 (3) A choice-of-law provision in a terms-of-service
 225 agreement is unenforceable against a fiduciary acting under this
 226 chapter to the extent the provision designates a law that
 227 enforces a limitation on a fiduciary's access to a digital asset
 228 which is void under subsection (2).
 229 (4) As to tangible personal property capable of receiving,
 230 storing, processing, or sending a digital asset, a fiduciary
 231 with authority over the property of a decedent, ward, principal,
 232 or settlor has the right to access the property and any digital

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asset stored in it and is an authorized user for purposes of any applicable computer fraud and unauthorized access laws, including the laws of this state.

Section 9. Section 740.701, Florida Statutes, is created to read:

740.701 Compliance.—

(1) If a fiduciary that has a right under this chapter to access a digital asset of an account holder complies with subsection (2), the custodian shall comply with the fiduciary's request for a record for:

(a) Access to the digital asset;

(b) Control of the digital asset; and

(c) A copy of the digital asset to the extent authorized by copyright law.

(2) If a request under subsection (1) is made by:

(a) A personal representative who has the right of access under s. 740.201, the request must be accompanied by a certified copy of the letters of administration of the personal representative, an order authorizing a curator or administrator ad litem, or other court order;

(b) A guardian that has the right of access under s. 740.301, the request must be accompanied by a certified copy of letters of plenary guardianship of the property or a court order that gives the guardian authority over the digital asset;

(c) An agent that has the right of access under s. 740.401, the request must be accompanied by an original or a copy of the power of attorney which authorizes the agent to exercise authority over the digital asset and a certification of the agent, under penalty of perjury, that the power of attorney is

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in effect;

(d) A trustee that has the right of access under s. 740.501, the request must be accompanied by a certified copy of the trust instrument, or a certification of trust under s. 736.1017, which authorizes the trustee to exercise authority over the digital asset; or

(e) A person that is entitled to receive and collect specified digital assets, the request must be accompanied by a certified copy of an order of summary administration issued pursuant to chapter 735.

(3) A custodian shall comply with a request made under subsection (1) not later than 60 days after receipt. If the custodian fails to comply, the fiduciary may apply to the court for an order directing compliance.

(4) A custodian that receives a certification of trust may require the trustee to provide copies of excerpts from the original trust instrument and later amendments which designate the trustee and confer on the trustee the power to act in the pending transaction.

(5) A custodian that acts in reliance on a certification of trust without knowledge that the representations contained in it are incorrect is not liable to any person for so acting and may assume without inquiry the existence of facts stated in the certification.

(6) A custodian that enters into a transaction in good faith and in reliance on a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(7) A custodian that demands the trust instrument in

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291 addition to a certification of trust or excerpts under
 292 subsection (4) is liable for damages if the court determines
 293 that the custodian did not act in good faith in demanding the
 294 trust instrument.

295 (8) This section does not limit the right of a person to
 296 obtain a copy of a trust instrument in a judicial proceeding
 297 concerning the trust.

298 Section 10. Section 740.801, Florida Statutes, is created
 299 to read:

300 740.801 Immunity.—A custodian and its officers, employees,
 301 and agents are immune from liability for any action done in good
 302 faith in compliance with this chapter.

303 Section 11. Section 740.901, Florida Statutes, is created
 304 to read:

305 740.901 Relation to Electronic Signatures in Global and
 306 National Commerce Act.—This chapter modifies, limits, or
 307 supersedes the Electronic Signatures in Global and National
 308 Commerce Act, 15 U.S.C. ss. 7001 et seq., but does not modify,
 309 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
 310 or authorize electronic delivery of the notices described in s.
 311 103(b) of that act, 15 U.S.C. s. 7003(b).

312 Section 12. Section 740.911, Florida Statutes, is created
 313 to read:

314 740.911 Applicability.—

315 (1) Subject to subsection (2), this chapter applies to:

316 (a) An agent acting under a power of attorney executed
 317 before, on, or after July 1, 2015;

318 (b) A personal representative acting for a decedent who
 319 died before, on, or after July 1, 2015;

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320 (c) A guardian appointed through a guardianship proceeding,
 321 whether pending in a court or commenced before, on, or after
 322 July 1, 2015; and

323 (d) A trustee acting under a trust created before, on, or
 324 after July 1, 2015.

325 (2) This chapter does not apply to a digital asset of an
 326 employer used by an employee in the ordinary course of the
 327 employer's business.

328 Section 13. This act shall take effect July 1, 2015.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL

8th District

February 4, 2015

The Honorable Anitere Flores
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 102 – Digital Assets

Dear Chairwoman Flores:

Senate Bill 102, relating Digital Assets has been referred to the Fiscal Policy Committee. I am requesting your consideration on placing SB 102 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: Jennifer Hrdlicka, Staff Director of the Fiscal Policy Committee
Tamra Lyon, Administrative Assistant of the Fiscal Policy Committee

REPLY TO:

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

Senate's Website: www.flisenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-2-15

Meeting Date

102

Bill Number (if applicable)

473040

Amendment Barcode (if applicable)

Topic Digital Assets

Name Casey Reed

Job Title State Director - Leg Affairs

Address 150 E College Ave

Street

Phone 850-294-2798

Tallahassee FL

City

State

32301

Zip

Email CR8243@ATT.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing

ATT

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)

4/2/2015

Meeting Date

102

Bill Number (if applicable)

Topic DIGITAL ASSETS

Amendment Barcode (if applicable)

Name SASHA KLEIN

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State

33480

Zip

Email SASHA.KLEIN@SABADELLBANK.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA BANKERS

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)

4/2/15

Meeting Date

102

Bill Number (if applicable)

Topic Digital Assets

Amendment Barcode (if applicable)

Name Kenneth Pratt

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Bankers Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

4/2/2015
Meeting Date

SB 102
Bill Number (if applicable)

Topic DIGITAL ASSETS

Amendment Barcode (if applicable)

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing NET CHOICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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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)

04/02/15

Meeting Date

102

Bill Number (if applicable)

Topic Digital Assets

Amendment Barcode (if applicable)

Name Travis Hayes

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Zip

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Real Property, Probate & Trust Law Section, Florida Bar

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

4/2/2015

Meeting Date

102

Bill Number (if applicable)

Topic DIGITAL ASSETS

Amendment Barcode (if applicable)

Name WILLIAM ASHWORTH

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing YAHOO!

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)

4/2/2015

Meeting Date

102

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Justin Sayfie

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City

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Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Google

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)

4/2/2015

Meeting Date

102

Bill Number (if applicable)

Topic Digital Assets

Amendment Barcode (if applicable)

Name Dan Sachs

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing Facebook

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
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 Fiscal Policy

BILL: PCS/CS/SB 608 (138190)

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on General Government); Regulated Industries Committee; and Senator Stargel

SUBJECT: Real Estate Brokers and Appraisers

DATE: April 1, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 608 authorizes the Florida Real Estate Commission (commission) within the Department of Business and Professional Regulation (department) to adopt rules to permit a real estate brokerage to register a broker on a temporary, emergency basis if a sole broker of a brokerage dies or is unexpectedly unable to remain a broker.

The bill exempts persons who hold a higher degree in real estate, such as a Master's or Doctorate Degree, from the pre-licensure and post-licensure education requirements.

The bill allows the commission to reinstate a license that has become void if it is determined that the individual failed to comply because of illness or economic hardship, as defined by rule.

To conform to federal standards the bill:

- Requires the documents that appraisers and appraisal management companies retain are the same as required by the Uniform Standards of Professional Appraisal Practice.
- Allows the department to inspect or copy the records of an appraisal management company at any time; and
- Repeals the ability of the Florida Real Estate Appraisal Board to enter into written agreements for reciprocal licensing of out-of-state appraisers.

The bill has no fiscal impact.

II. Present Situation:

The Florida Real Estate Commission (commission) within the Division of Real Estate in the Department of Business and Professional Regulation (department) administers and enforces the laws governing real estate brokers and can adopt rules to implement the provisions of part I of ch. 475, F.S.

The Florida Real Estate Appraisal Board (board) within the department administers and enforces the laws governing real estate appraisers and can adopt rules to implement the provisions of part II of ch. 475, F.S.

The Appraisal Foundation is a private, non-profit educational organization formed to promote professionalism in the valuation industry. The Appraisal Standards Board within the Appraisal Foundation establishes the generally-accepted standards of the profession, known as the Uniform Standards of Professional Appraisal Practice (USPAP).¹

The rules created by the commission, the board and the standards found in the USPAP govern the real estate brokers, appraisers and appraisal management companies as well as appraisals within the state of Florida.

Real Estate Brokerage Registration Requirements

Section 475.15, F.S., requires that a partnership, limited liability partnership, limited liability company, or corporation that acts as a broker to register with the commission and renew the licenses or registrations of its members, officers, and directors for each license period. For a limited partnership, only the general partners must be licensed brokers or registered brokerage corporations. The registration of a corporation, limited liability company, limited liability partnership, or partnership is canceled automatically during the period of time the entity does not have at least one broker who has an active license or registration.

Real Estate Broker Education Requirement Exemption

Section 475.17, F.S., sets forth the qualifications for practice for a real estate broker. In part, an applicant must complete a pre-licensing course.² Further the commission may require licensees to meet post licensure education requirements in order to maintain valid sales associate's or broker's licenses.³ The required education courses must be provided by an accredited college, university, or community college, by a career center, by a registered real estate school, or by a commission-approved sponsor.⁴ The schools or sponsors may provide the instruction through classroom courses, distance learning courses, or both. For a person who cannot attend the courses as offered, courses must be made available by correspondence or other suitable means.⁵

¹ The Appraisal Foundation, *Authorized by Congress as the Source of Appraisal Standards and Appraiser Qualifications*, available at <https://netforum.avectra.com/eweb/StartPage.aspx?Site=taf&WebCode=HomePage> (last visited Mar. 25, 2015).

² Section 475.17(2)(a), F.S.

³ Sections 475.17(3)(a), and (4)(a), F.S.

⁴ *Id.*

⁵ Sections 475.17(2), and (5), F.S.

A person who has received a 4-year degree in real estate from an accredited institution of higher education is exempt from pre-licensure education course requirements as well as post-licensure education requirements.⁶ Currently, these exemptions do not apply to a person who has a higher degree in real estate, such as a Master's or Doctorate degree.

Real Estate Brokers – Inactive License

Section 475.183, F.S., provides for the activation of licenses that have become voluntarily or involuntarily inactive. Licenses that have been involuntarily inactive for more than 2 years automatically expire, and become null and void without any further action by the commission or department. The department is required to give notice to the licensee 90 days prior to expiration of the license. The commission adopted a \$45 late fee for the late renewal of an involuntarily inactive license.⁷

The Appraisal Subcommittee Fee

The Appraisal Subcommittee (ASC) was created in 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The ASC is an independent agency that oversees the states' appraisal regulatory programs including Florida's appraiser regulatory program.⁸

The ASC maintains a database of state certified and licensed real estate appraisers called the National Registry. State appraiser regulatory agencies submit appraiser information to the registry. An appraiser must be listed on the National Registry to be eligible to perform appraisals in connection with federally related transactions, including mortgage transactions. The ASC requires an annual \$40 fee from certified or licensed appraisers to support the ASC National Registry.⁹ The state agency that oversees appraisers is required to collect the fee from appraisers and transmit it to the ASC annually. The real estate appraisers in Florida are regulated by the Florida Real Estate Appraisal Board within the Division of Real Estate in the department.¹⁰

Real Estate Licensed Appraisers

The ASC and the Appraisal Foundation have adopted standard designation for appraisers, including "state certified general appraiser" and "state certified appraiser." As of July 1, 2003, the department cannot issue licenses for the category of licensed appraiser.¹¹ In 2013, the Legislature removed the term "licensed appraiser" from the definition of "supervisory appraiser;" and the reference to "licensed" appraisers from the supervisory requirements for

⁶ Section 475.17(6), F.S.

⁷ Section 475.183(2)(b), F.S., and R. 61J2-1.011(5)(c), F.A.C.

⁸ Appraisal Subcommittee, Federal Financial Institutions Examination Council, *ASC History*, available at <https://www.asc.gov/About-the-ASC/ASCHistory.aspx> (last visited Mar. 27, 2015). See also s. 475.611(1)(b), F.S.

⁹ 12 U.S.C. s. 3332(a) and 3338(a)(4). See ASC Rules of Operation 2.01 Assessments (Feb. 12, 2014).

¹⁰ Section 475.613(2), F.S.

¹¹ Section 475.611(1)(q), F.S. According to the department, there are remaining licensed appraisers, but the number continues to decline.

trainee real estate appraisers. These changes conformed Florida law to federally recognized standards that only allow a “certified” appraiser to act as a supervisor for a trainee appraiser.¹²

Currently under Florida law both a licensed or certified appraiser can supervise a “registered trainee appraiser,”¹³ which does not conform to federal standards.

Real Estate Appraisers – Retention of Records

Florida law and the USPAP have different record retention requirements.

Section 475.629, F.S., requires all registered, licensed, or certified appraisers and registered appraisal management companies to retain the following documents for 5 years:¹⁴

- Original or true copies of any contracts engaging the appraiser's or appraisal management company's services;
- Appraisal reports; and
- Supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services.

These records must be available for inspection or copying by the department. However, the department may only inspect or copy the records of an appraisal management company in connection with a pending investigation or complaint. The department is able to inspect any appraiser or appraisal office for the purposes of determining if any of the provisions of chs. 475 or 455, F.S., or any rule is being violated.¹⁵ However, the department does not have the authority to inspect appraisal management companies.¹⁶

The USPAP requires the appraiser to make a work file which must include:

- The name of the client and the identity, by name or type, of any other intended users;
- True copies of any written reports, documented on any type of media. (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire report transmitted to the client satisfies that requirement of a true copy.);
- Summaries of all oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification;
- All other data, information, and documentation necessary to support the appraiser's opinions and calculations and to show compliance with USPAP, or reference to the location(s) of such other documentation; and
- A work file in support of a Restricted Appraisal Report must be sufficient for the appraiser to produce an Appraisal Report.

¹² Chapter 2013-144, L.O.F. The Real Property Appraiser Qualifications Criteria and Interpretations of the Criteria, March 2015, p. 10, available at <https://appraisalfoundation.sharefile.com/download.aspx?id=s8b5c316aad040a1b> (last visited Mar. 25, 2015).

¹³ Section 475.611(1)(r), F.S.

¹⁴ The statute requires the documents to be retained which ever period is longer, 5 years or the period required by the USPAP. The USPAP also requires a 5-year retention period. The Uniform Standards of Professional Appraisal Practice is available at <https://netforum.avectra.com/eweb/DynamicPage.aspx?Site=TAF&WebCode=USPAP> (last visited Mar. 25, 2015).

¹⁵ Section 475.6295, F.S.

¹⁶ *Id.*

Real Estate Appraisers – Nonresident Licenses and Certifications

Florida requires out-of-state licensees to meet all of the requirements for appraiser licensure. However, s. 475.631, F.S., allows the board to enter into agreements with other states that have similar licensure requirements. These agreements afford Florida certified appraisers to become licensed in another state without having to meet that all of that state's requirements and vice versa.¹⁷

Dodd-Frank Wall Street Reform and Consumer Protection Act

Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to “promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ‘too big to fail,’ to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.”

The Dodd-Frank Act became effective on July 1, 2013.¹⁸ The Dodd-Frank Act amended the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and requires states to have in place a policy for issuing a reciprocity certification or license to an appraiser from another state.

The state's reciprocity provision must meet the following conditions: 1. The appraiser licensing and certification program of the other state is in compliance with the provisions of FIRREA; and 2. The appraiser holds a valid certification from a state with requirements for certification or licensing that meet or exceed the certification and licensure standards established by the state where the individual seeks reciprocity.¹⁹ The FIRREA does not require written agreements between states.

Another effect of the Dodd-Frank Act was that it established minimum requirements for the registration and supervision of appraisal management companies that will apply to the states.²⁰ As a result, rules have been proposed by the affected federal agencies to implement these requirements and are pending at this time. Failure to comply with the requirements of federal law could result in sanctions that could prohibit appraisers licensed in Florida from conducting federally related appraisal transactions.²¹

¹⁷ See R. 61J1-3.004, F.A.C. If the board determines that other states do not offer comparable nonresident licensure or certification to Florida certified appraisers that Florida offers to those states, the board must require certified appraisers or licensees of that jurisdiction to meet the education, experience, and examination requirements of other nonresident licensure or certification. s. 475.631(1), F.S.

¹⁸ Appraisal Subcommittee, Federal Financial Institutions Examination Council, *The Dodd-Frank Wall Street Reform and Consumer Protection Act*, available at <https://www.asc.gov/Legal-Framework/DoddFrank.aspx> (last visited Mar. 25, 2015).

¹⁹ 12 U.S.C. s. 3351(b); and Appraisal Subcommittee Policy Statement 5 (June 1, 2013).

²⁰ Federal Register/Vol. 79, No. 68, Proposed Rules, April 9, 2014, available at <http://www.gpo.gov/fdsys/pkg/FR-2014-04-09/pdf/2014-06860.pdf> (last visited Mar. 26, 2015).

²¹ Department of Business and Professional Regulation, 2015 Agency Legislative Bill Analysis: SB 608 (Feb. 26, 2015).

III. Effect of Proposed Changes:

Real Estate Brokerage Registration Requirements – Section 1

The bill amends s. 475.15, F.S., to require the commission to adopt rules that allow a brokerage to register a broker on a temporary, emergency basis if a sole broker of a brokerage dies or is unexpectedly unable to remain a broker.

Real Estate Broker Education Requirement Exemption – Section 2

The bill amends s. 475.17(6), F.S., to exempt persons who hold a higher degree in real estate, such as a Master's or Doctorate Degree, from the pre-licensure education course requirements and the post-licensure education requirements.

Real Estate Brokers – Inactive License – Section 3

The bill creates s. 475.183(4), F.S., to allow the commission to reinstate a license that has become void if it determines the individual failed to comply because of illness or economic hardship.²² The individual must apply to the commission for reinstatement within 6 months after the date that the license became void. An individual whose license is reinstated must meet all continuing education requirements, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure.

- **The Appraisal Subcommittee Fee – Section 6**

The bill amends s. 475.621(2), F.S., to require the department to transmit the annual ASC fee collected from appraisers who perform or seek to perform appraisals in federally related transactions to the ASC instead of to the Federal Financial Institutions Examinations Council.

Real Estate Licensed Appraisers – Sections 4 and 5

The bill amends ss. 475.611(1)(r), 475.612(5), F.S., to delete the term “licensed.” This deletion results in only a certified appraiser being able to supervise a “registered trainee appraiser.”

Real Estate Appraisers – Retention of Records – Sections 7 and 8

The bill aligns Florida's document retention requirements with the USPAP and the proposed rules regarding appraisal management companies. Specifically, the bill amends s. 475.629, F.S., to specify the documents an appraiser or an appraisal management company must retain. The bill requires that each appraiser or appraisal management company prepare and retain a work file for each appraisal, appraisal review, or appraisal consulting agreement. The work file must be maintained for at least 5 years, or for a greater period if specified by the USPAP.

The retained work file must contain:

- Original or true copies of any contracts engaging the appraiser or appraisal management company's services;
- Appraisal reports;

²² Illness or economic hardship is to be defined by rule.

- Supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services; and
- All other data, information, and documentation required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, as established by rule of the board.

Additionally, the bill requires that, in accordance with administrative rules adopted by the board, an appraisal management company must also retain:

- Company accounts;
- Correspondence;
- Memoranda;
- Papers;
- Books; and
- Other records.

The bill deletes the provision limiting the department to only inspect or copy the records of an appraisal management company when in connection with a pending investigation or complaint. This allows the department to inspect the records of an appraisal management company.

The bill amends s. 475.6295, F.S., to authorize the department to inspect any appraisal management company for the purposes of determining if any of the provisions of chs. 475 or 455, F.S., or any rule is being violated.

The proposed language will ensure that Florida is in compliance with pending federal rules that impose these requirements on appraisal management companies.²³

Real Appraiser – Nonresident Licenses and Certifications – Section 9

The bill repeals the reciprocity provisions of s. 473.631(1), F.S., allowing the board to enter to agreements between Florida and other states. As of July 1, 2013, the Dodd-Frank Act requires appraiser licensure reciprocity between states, but the requirement for a written agreement is no longer permitted.²⁴

Effective Date – Section 10

The bill is effective July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²³ Department of Business and Professional Regulation, 2015 Agency Legislative Bill Analysis: SB 608 (February 26, 2015).

²⁴ *Id.*

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:

According to the Department of Business and Professional Regulation, the bill requires minimal information technology system changes related to process applications, and to track licenses, complaints, and legal proceedings. These programming expenditures can be absorbed with existing resources.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the Department of Business and Professional Regulation to adopt rules relating to the registry of a broker on a temporary, emergency basis and the reinstatement of a void license due to illness or economic hardship.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 475.15, 475.17, 475.183, 475.611, 475.612, 475.621, 475.629, 475.6295, and 475.631.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on March 17, 2015:

²⁵ *Id.*

The committee substitute deletes duplicative language relating to the Florida Real Estate Commission's discretion to reinstate a license that has become void under certain circumstances.

CS by Regulated Industries Committee on March 4, 2015:

- Deletes the term “licensed” appraiser in regards to provide that it is a certified appraiser that has direct supervision over the registered trainee appraiser.
- Provides that the department must transmit the annual fee that the department must collect from persons who perform or seek to perform appraisers in federally related transactions to the appraisal subcommittee instead of to the Federal Financial Institutions Examinations Council.
- Requires the appraiser's work file contain all other data, information, and documentation required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board.

B. Amendments:

None.



963650

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 107 - 122
and insert:
licensed, or certified under this part ~~or an appraisal~~
~~management company registered under this part~~ shall prepare and
retain a work file for each appraisal, appraisal review, or
appraisal consulting assignment. An appraisal management company
registered under this part shall prepare and retain an order
file for each appraisal, appraisal review, or appraisal



963650

consulting assignment. The work file and the order file shall be retained, for 5 years or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater. The work file must contain, original or true copies of any contracts engaging the appraiser's or appraisal management company's services, appraisal reports, and supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services and all other data, information, and documentation required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board. The order file must contain original or true copies of any contracts engaging the appraiser's services, the appraisal reports, any engagement materials or instructions from the client, and all other documents required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board. Notwithstanding the foregoing, while general contracts and materials pertaining to impaneling of an appraiser by an appraisal management company shall be retained under this section, such contracts and materials are not required to be maintained within the order file. Except as otherwise specified

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

And the title is amended as follows:

Delete lines 19 - 21



963650

40 and insert:
41 file in certain circumstances; requiring an appraisal
42 management company to prepare and retain an order file
43 in certain circumstances; requiring the work file and
44 the order file to be retained for a specified period;
45 requiring the work file and the order file to contain
46 certain data, information, and documentation;
47 requiring



138190

594-02432-15

Proposed Committee Substitute by the Committee on Fiscal Policy
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to real estate brokers and appraisers;
amending s. 475.15, F.S.; requiring the Florida Real
Estate Commission to adopt certain rules pertaining to
broker registration on a temporary, emergency basis;
amending s. 475.17, F.S.; clarifying education
requirements that apply for postlicensure and initial
real estate licensure; amending s. 475.183, F.S.;
providing that the commission may reinstate the
license of an individual in certain circumstances;
amending s. 475.611, F.S.; revising the supervision
requirements for registered trainee appraisers;
amending s. 475.612, F.S.; revising the supervision
requirements for select graduate students; amending s.
475.621, F.S.; providing that the department shall
collect annual fees set by and transmitted to the
appraisal subcommittee; amending s. 475.629, F.S.;
requiring an appraiser to prepare and retain a work
file in certain circumstances; requiring the work file
to be retained for a specified period; requiring the
work file to contain certain documents; requiring
appraisal management companies to retain certain
items; removing the prohibition that the Department of
Business and Professional Regulation may not inspect
or copy the records except in certain circumstances;
amending s. 475.6295, F.S.; providing that duly
authorized agents and employees of the department may



138190

594-02432-15

inspect an appraisal management company at all
reasonable hours; amending s. 475.631, F.S.; removing
the board's authority to enter into written agreements
with similar licensing or certification authorities;
providing an effective date.

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

Section 1. Section 475.15, Florida Statutes, is amended to
read:

475.15 Registration and licensing of general partners,
members, officers, and directors of a firm.—Each partnership,
limited liability partnership, limited liability company, or
corporation which acts as a broker shall register with the
commission and shall renew the licenses or registrations of its
members, officers, and directors for each license period.
However, if the partnership is a limited partnership, only the
general partners must be licensed brokers or brokerage
corporations registered pursuant to this part. If the license or
registration of at least one active broker member is not in
force, the registration of a corporation, limited liability
company, limited liability partnership, or partnership is
canceled automatically during that period of time. The
commission shall adopt rules that allow a brokerage to register
a broker on a temporary, emergency basis if a sole broker of a
brokerage dies or is unexpectedly unable to remain a broker.

Section 2. Subsection (6) of section 475.17, Florida
Statutes, is amended to read:

475.17 Qualifications for practice.—



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(6) The postlicensure education requirements of this section, and the education course requirements for one to become initially licensed, do not apply to any applicant or licensee who has received a 4-year degree, or higher, in real estate from an accredited institution of higher education.

Section 3. Subsection (4) is added to section 475.183, Florida Statutes, to read:

475.183 Inactive status.—

(4) The commission may reinstate the license of an individual whose license has become void if the commission determines that the individual failed to comply because of illness or economic hardship, as defined by rule. The individual must apply to the commission for reinstatement within 6 months after the date that the license becomes void. Such individual must meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this section.

Section 4. Paragraph (r) of subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

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

(r) "Registered trainee appraiser" means a person who is registered with the department as qualified to perform appraisal services only under the direct supervision of a ~~licensed or~~ certified appraiser. A registered trainee appraiser may accept appraisal assignments only from her or his primary or secondary supervisory appraiser.

Section 5. Subsection (5) of section 475.612, Florida Statutes, is amended to read:



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475.612 Certification, licensure, or registration required.—

(5) This section does not apply to any full-time graduate student who is enrolled in a degree program in appraising at a college or university in this state, if the student is acting under the direct supervision of a certified ~~or licensed~~ appraiser and is engaged only in appraisal activities related to the approved degree program. Any appraisal report by the student must be issued in the name of the supervising individual who is responsible for the report's content.

Section 6. Subsection (2) of section 475.621, Florida Statutes, is amended to read:

475.621 Registry of licensed and certified appraisers.—

(2) The department shall collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual fee as set by, and transmitted to, the appraisal subcommittee ~~to be transmitted to the Federal Financial Institutions Examinations Council on an annual basis.~~

Section 7. Section 475.629, Florida Statutes, is amended to read:

475.629 Retention of records.—An appraiser registered, licensed, or certified under this part or an appraisal management company registered under this part shall prepare and retain a work file for each appraisal, appraisal review, or appraisal consulting assignment. This work file shall be retained, for 5 years or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater. The work file shall contain, original or true copies of any contracts engaging the appraiser's or appraisal management



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115 company's services, appraisal reports, and supporting data
116 assembled and formulated by the appraiser or company in
117 preparing appraisal reports or engaging in appraisal management
118 services and all other data, information, and documentation
119 required by the standards for the development or communication
120 of a real estate appraisal as approved and adopted by the
121 Appraisal Standards Board of The Appraisal Foundation, as
122 established by rule of the board. Except as otherwise specified
123 in the Uniform Standards of Professional Appraisal Practice, the
124 period for retention of the records applicable to each
125 engagement of the services of the appraiser or appraisal
126 management company runs from the date of the submission of the
127 appraisal report to the client. Appraisal management companies
128 shall also retain the company accounts, correspondence,
129 memoranda, papers, books, and other records in accordance with
130 administrative rules adopted by the board. These records must be
131 made available by the appraiser or appraisal management company
132 for inspection and copying by the department upon reasonable
133 notice to the appraiser or company. ~~However, the department may~~
134 ~~not inspect or copy the records of an appraisal management~~
135 ~~company except in connection with a pending investigation or~~
136 ~~complaint.~~ If an appraisal has been the subject of or has served
137 as evidence for litigation, reports and records must be retained
138 for at least 2 years after the trial or the period specified in
139 the Uniform Standards of Professional Appraisal Practice,
140 whichever is greater.

141 Section 8. Section 475.6295, Florida Statutes, is amended
142 to read:

143 475.6295 Authority to inspect.—Duly authorized agents and



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144 employees of the department shall have the power to inspect in a
145 lawful manner at all reasonable hours any appraisal management
146 company, appraiser or appraisal office certified, registered, or
147 licensed under this chapter, for the purpose of determining if
148 any of the provisions of this chapter, chapter 455, or any rule
149 promulgated under authority of either chapter is being violated.

150 Section 9. Section 475.631, Florida Statutes, is amended to
151 read:

152 475.631 Nonresident licenses and certifications.—

153 ~~(1) Notwithstanding the requirements for certification set~~
154 ~~forth in ss. 475.615 and 475.616, the board may enter into~~
155 ~~written agreements with similar licensing or certification~~
156 ~~authorities of other states, territories, or jurisdictions of~~
157 ~~the United States to ensure for state-certified appraisers~~
158 ~~nonresident licensure or certification opportunities comparable~~
159 ~~to those afforded to nonresidents by this section. Whenever the~~
160 ~~board determines that another jurisdiction does not offer~~
161 ~~nonresident licensure or certification to state-certified~~
162 ~~appraisers substantially comparable to those afforded to~~
163 ~~certified appraisers or licensees of that jurisdiction by this~~
164 ~~section, the board shall require certified appraisers or~~
165 ~~licensees of that jurisdiction who apply for nonresident~~
166 ~~certification to meet education, experience, and examination~~
167 ~~requirements substantially comparable to those required by that~~
168 ~~jurisdiction with respect to state-certified appraisers who seek~~
169 ~~nonresident licensure or certification, not to exceed such~~
170 ~~requirements as are prescribed in ss. 475.615 and 475.616.~~

171 (1)(2)(a) Any resident state-certified appraiser who
172 becomes a nonresident shall, within 60 days, notify the board of



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173 the change in residency and comply with nonresident
174 requirements. Failure to notify and comply is a violation of the
175 license law, subject to the penalties in s. 475.624.

176 (2) ~~(b)~~ All nonresident applicants, certified appraisers,
177 and licensees shall comply with all requirements of board rules
178 and this part. The board may adopt rules pursuant to ss.
179 120.536(1) and 120.54 necessary for the regulation of
180 nonresident certified appraisers and licensees.

181 Section 10. This act shall take effect July 1, 2015.

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 Fiscal Policy

BILL: CS/CS/SB 608

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on General Government); Regulated Industries Committee; and Senator Stargel

SUBJECT: Real Estate Brokers and Appraisers

DATE: April 2, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 608 authorizes the Florida Real Estate Commission (commission) within the Department of Business and Professional Regulation (department) to adopt rules to permit a real estate brokerage to register a broker on a temporary, emergency basis if a sole broker of a brokerage dies or is unexpectedly unable to remain a broker.

The bill exempts persons who hold a higher degree in real estate, such as a Master's or Doctorate Degree, from the pre-licensure and post-licensure education requirements.

The bill allows the commission to reinstate a license that has become void if it is determined that the individual failed to comply because of illness or economic hardship, as defined by rule.

To conform to federal standards the bill:

- Requires the documents that appraisers and appraisal management companies retain are the same as required by the Uniform Standards of Professional Appraisal Practice.
- Allows the department to inspect or copy the records of an appraisal management company at any time; and
- Repeals the ability of the Florida Real Estate Appraisal Board to enter into written agreements for reciprocal licensing of out-of-state appraisers.

The bill has no fiscal impact.

II. Present Situation:

The Florida Real Estate Commission (commission) within the Division of Real Estate in the Department of Business and Professional Regulation (department) administers and enforces the laws governing real estate brokers and can adopt rules to implement the provisions of part I of ch. 475, F.S.

The Florida Real Estate Appraisal Board (board) within the department administers and enforces the laws governing real estate appraisers and can adopt rules to implement the provisions of part II of ch. 475, F.S.

The Appraisal Foundation is a private, non-profit educational organization formed to promote professionalism in the valuation industry. The Appraisal Standards Board within the Appraisal Foundation establishes the generally-accepted standards of the profession, known as the Uniform Standards of Professional Appraisal Practice (USPAP).¹

The rules created by the commission, the board and the standards found in the USPAP govern the real estate brokers, appraisers and appraisal management companies as well as appraisals within the state of Florida.

Real Estate Brokerage Registration Requirements

Section 475.15, F.S., requires that a partnership, limited liability partnership, limited liability company, or corporation that acts as a broker to register with the commission and renew the licenses or registrations of its members, officers, and directors for each license period. For a limited partnership, only the general partners must be licensed brokers or registered brokerage corporations. The registration of a corporation, limited liability company, limited liability partnership, or partnership is canceled automatically during the period of time the entity does not have at least one broker who has an active license or registration.

Real Estate Broker Education Requirement Exemption

Section 475.17, F.S., sets forth the qualifications for practice for a real estate broker. In part, an applicant must complete a pre-licensing course.² Further the commission may require licensees to meet post licensure education requirements in order to maintain valid sales associate's or broker's licenses.³ The required education courses must be provided by an accredited college, university, or community college, by a career center, by a registered real estate school, or by a commission-approved sponsor.⁴ The schools or sponsors may provide the instruction through classroom courses, distance learning courses, or both. For a person who cannot attend the courses as offered, courses must be made available by correspondence or other suitable means.⁵

¹ The Appraisal Foundation, *Authorized by Congress as the Source of Appraisal Standards and Appraiser Qualifications*, available at <https://netforum.avectra.com/eweb/StartPage.aspx?Site=taf&WebCode=HomePage> (last visited Mar. 25, 2015).

² Section 475.17(2)(a), F.S.

³ Sections 475.17(3)(a), and (4)(a), F.S.

⁴ *Id.*

⁵ Sections 475.17(2), and (5), F.S.

A person who has received a 4-year degree in real estate from an accredited institution of higher education is exempt from pre-licensure education course requirements as well as post-licensure education requirements.⁶ Currently, these exemptions do not apply to a person who has a higher degree in real estate, such as a Master's or Doctorate degree.

Real Estate Brokers – Inactive License

Section 475.183, F.S., provides for the activation of licenses that have become voluntarily or involuntarily inactive. Licenses that have been involuntarily inactive for more than 2 years automatically expire, and become null and void without any further action by the commission or department. The department is required to give notice to the licensee 90 days prior to expiration of the license. The commission adopted a \$45 late fee for the late renewal of an involuntarily inactive license.⁷

The Appraisal Subcommittee Fee

The Appraisal Subcommittee (ASC) was created in 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The ASC is an independent agency that oversees the states' appraisal regulatory programs including Florida's appraiser regulatory program.⁸

The ASC maintains a database of state certified and licensed real estate appraisers called the National Registry. State appraiser regulatory agencies submit appraiser information to the registry. An appraiser must be listed on the National Registry to be eligible to perform appraisals in connection with federally related transactions, including mortgage transactions. The ASC requires an annual \$40 fee from certified or licensed appraisers to support the ASC National Registry.⁹ The state agency that oversees appraisers is required to collect the fee from appraisers and transmit it to the ASC annually. The real estate appraisers in Florida are regulated by the Florida Real Estate Appraisal Board within the Division of Real Estate in the department.¹⁰

Real Estate Licensed Appraisers

The ASC and the Appraisal Foundation have adopted standard designation for appraisers, including "state certified general appraiser" and "state certified appraiser." As of July 1, 2003, the department cannot issue licenses for the category of licensed appraiser.¹¹ In 2013, the Legislature removed the term "licensed appraiser" from the definition of "supervisory appraiser;" and the reference to "licensed" appraisers from the supervisory requirements for

⁶ Section 475.17(6), F.S.

⁷ Section 475.183(2)(b), F.S., and R. 61J2-1.011(5)(c), F.A.C.

⁸ Appraisal Subcommittee, Federal Financial Institutions Examination Council, *ASC History*, available at <https://www.asc.gov/About-the-ASC/ASCHistory.aspx> (last visited Mar. 27, 2015). See also s. 475.611(1)(b), F.S.

⁹ 12 U.S.C. s. 3332(a) and 3338(a)(4). See ASC Rules of Operation 2.01 Assessments (Feb. 12, 2014).

¹⁰ Section 475.613(2), F.S.

¹¹ Section 475.611(1)(q), F.S. According to the department, there are remaining licensed appraisers, but the number continues to decline.

trainee real estate appraisers. These changes conformed Florida law to federally recognized standards that only allow a “certified” appraiser to act as a supervisor for a trainee appraiser.¹²

Currently under Florida law both a licensed or certified appraiser can supervise a “registered trainee appraiser,”¹³ which does not conform to federal standards.

Real Estate Appraisers – Retention of Records

Florida law and the USPAP have different record retention requirements.

Section 475.629, F.S., requires all registered, licensed, or certified appraisers and registered appraisal management companies to retain the following documents for 5 years:¹⁴

- Original or true copies of any contracts engaging the appraiser's or appraisal management company's services;
- Appraisal reports; and
- Supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services.

These records must be available for inspection or copying by the department. However, the department may only inspect or copy the records of an appraisal management company in connection with a pending investigation or complaint. The department is able to inspect any appraiser or appraisal office for the purposes of determining if any of the provisions of chs. 475 or 455, F.S., or any rule is being violated.¹⁵ However, the department does not have the authority to inspect appraisal management companies.¹⁶

The USPAP requires the appraiser to make a work file which must include:

- The name of the client and the identity, by name or type, of any other intended users;
- True copies of any written reports, documented on any type of media. (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire report transmitted to the client satisfies that requirement of a true copy.);
- Summaries of all oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification;
- All other data, information, and documentation necessary to support the appraiser's opinions and calculations and to show compliance with USPAP, or reference to the location(s) of such other documentation; and
- A work file in support of a Restricted Appraisal Report must be sufficient for the appraiser to produce an Appraisal Report.

¹² Chapter 2013-144, L.O.F. The Real Property Appraiser Qualifications Criteria and Interpretations of the Criteria, March 2015, p. 10, available at <https://appraisalfoundation.sharefile.com/download.aspx?id=s8b5c316aad040a1b> (last visited Mar. 25, 2015).

¹³ Section 475.611(1)(r), F.S.

¹⁴ The statute requires the documents to be retained which ever period is longer, 5 years or the period required by the USPAP. The USPAP also requires a 5-year retention period. The Uniform Standards of Professional Appraisal Practice is available at <https://netforum.avectra.com/eweb/DynamicPage.aspx?Site=TAF&WebCode=USPAP> (last visited Mar. 25, 2015).

¹⁵ Section 475.6295, F.S.

¹⁶ *Id.*

Real Estate Appraisers – Nonresident Licenses and Certifications

Florida requires out-of-state licensees to meet all of the requirements for appraiser licensure. However, s. 475.631, F.S., allows the board to enter into agreements with other states that have similar licensure requirements. These agreements afford Florida certified appraisers to become licensed in another state without having to meet that all of that state's requirements and vice versa.¹⁷

Dodd-Frank Wall Street Reform and Consumer Protection Act

Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to “promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ‘too big to fail,’ to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.”

The Dodd-Frank Act became effective on July 1, 2013.¹⁸ The Dodd-Frank Act amended the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and requires states to have in place a policy for issuing a reciprocity certification or license to an appraiser from another state.

The state's reciprocity provision must meet the following conditions: 1. The appraiser licensing and certification program of the other state is in compliance with the provisions of FIRREA; and 2. The appraiser holds a valid certification from a state with requirements for certification or licensing that meet or exceed the certification and licensure standards established by the state where the individual seeks reciprocity.¹⁹ The FIRREA does not require written agreements between states.

Another effect of the Dodd-Frank Act was that it established minimum requirements for the registration and supervision of appraisal management companies that will apply to the states.²⁰ As a result, rules have been proposed by the affected federal agencies to implement these requirements and are pending at this time. Failure to comply with the requirements of federal law could result in sanctions that could prohibit appraisers licensed in Florida from conducting federally related appraisal transactions.²¹

¹⁷ See R. 61J1-3.004, F.A.C. If the board determines that other states do not offer comparable nonresident licensure or certification to Florida certified appraisers that Florida offers to those states, the board must require certified appraisers or licensees of that jurisdiction to meet the education, experience, and examination requirements of other nonresident licensure or certification. s. 475.631(1), F.S.

¹⁸ Appraisal Subcommittee, Federal Financial Institutions Examination Council, *The Dodd-Frank Wall Street Reform and Consumer Protection Act*, available at <https://www.asc.gov/Legal-Framework/DoddFrank.aspx> (last visited Mar. 25, 2015).

¹⁹ 12 U.S.C. s. 3351(b); and Appraisal Subcommittee Policy Statement 5 (June 1, 2013).

²⁰ Federal Register/Vol. 79, No. 68, Proposed Rules, April 9, 2014, available at <http://www.gpo.gov/fdsys/pkg/FR-2014-04-09/pdf/2014-06860.pdf> (last visited Mar. 26, 2015).

²¹ Department of Business and Professional Regulation, 2015 Agency Legislative Bill Analysis: SB 608 (Feb. 26, 2015).

III. Effect of Proposed Changes:

Real Estate Brokerage Registration Requirements – Section 1

The bill amends s. 475.15, F.S., to require the commission to adopt rules that allow a brokerage to register a broker on a temporary, emergency basis if a sole broker of a brokerage dies or is unexpectedly unable to remain a broker.

Real Estate Broker Education Requirement Exemption – Section 2

The bill amends s. 475.17(6), F.S., to exempt persons who hold a higher degree in real estate, such as a Master's or Doctorate Degree, from the pre-licensure education course requirements and the post-licensure education requirements.

Real Estate Brokers – Inactive License – Section 3

The bill creates s. 475.183(4), F.S., to allow the commission to reinstate a license that has become void if it determines the individual failed to comply because of illness or economic hardship.²² The individual must apply to the commission for reinstatement within 6 months after the date that the license became void. An individual whose license is reinstated must meet all continuing education requirements, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure.

The Appraisal Subcommittee Fee – Section 6

The bill amends s. 475.621(2), F.S., to require the department to transmit the annual ASC fee collected from appraisers who perform or seek to perform appraisals in federally related transactions to the ASC instead of to the Federal Financial Institutions Examinations Council.

Real Estate Licensed Appraisers – Sections 4 and 5

The bill amends ss. 475.611(1)(r), 475.612(5), F.S., to delete the term “licensed.” This deletion results in only a certified appraiser being able to supervise a “registered trainee appraiser.”

Real Estate Appraisers – Retention of Records – Sections 7 and 8

The bill aligns Florida's document retention requirements with the USPAP and the proposed rules regarding appraisal management companies. Specifically, the bill amends s. 475.629, F.S., to specify the documents an appraiser and an appraisal management company must retain.

The bill requires that each appraiser prepare and retain a work file for each appraisal, appraisal review, or appraisal consulting agreement. The work file must contain:

- Original or true copies of any contracts engaging the appraiser or appraisal management company's services;
- Appraisal reports;

²² Illness or economic hardship is to be defined by rule.

- Supporting data assembled and formulated by the appraiser or company in preparing appraisal reports or engaging in appraisal management services; and
- All other data, information, and documentation required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, as established by rule of the board.

The bill requires that each appraisal management company prepare and retain an order file for each appraisal, appraisal review, or appraisal consulting assignment. The order file must contain:

- Original or true copies of any contracts engaging the appraiser's services;
- Appraisal reports;
- Any engagement material or instructions from the client; and
- All documents required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, as established by rule of the board.

General contracts and materials pertaining to the impaneling of an appraiser are required to be retained but are not required to be maintained in the order file.

The work file and order file must be maintained for at least 5 years, or for a greater period if specified by the USPAP.

Additionally, the bill requires that, in accordance with administrative rules adopted by the board, an appraisal management company must also retain:

- Company accounts;
- Correspondence;
- Memoranda;
- Papers;
- Books; and
- Other records.

The bill deletes the provision limiting the department to only inspect or copy the records of an appraisal management company when in connection with a pending investigation or complaint. This allows the department to inspect the records of an appraisal management company.

The bill amends s. 475.6295, F.S., to authorize the department to inspect any appraisal management company for the purposes of determining if any of the provisions of chs. 475 or 455, F.S., or any rule is being violated.

The proposed language will ensure that Florida is in compliance with pending federal rules that impose these requirements on appraisal management companies.²³

²³ Department of Business and Professional Regulation, 2015 Agency Legislative Bill Analysis: SB 608 (Feb. 26, 2015).

Real Appraiser – Nonresident Licenses and Certifications – Section 9

The bill repeals the reciprocity provisions of s. 473.631(1), F.S., allowing the board to enter to agreements between Florida and other states. As of July 1, 2013, the Dodd-Frank Act requires appraiser licensure reciprocity between states, but the requirement for a written agreement is no longer permitted.²⁴

Effective Date – Section 10

The bill is effective July 1, 2015.

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

The mandate restrictions do not apply because the bill does not affect counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Business and Professional Regulation, the bill requires minimal information technology system changes related to process applications, and to track licenses, complaints, and legal proceedings. These programming expenditures can be absorbed with existing resources.²⁵

VI. Technical Deficiencies:

None.

²⁴ *Id.*

²⁵ *Id.*

VII. Related Issues:

The bill authorizes the Department of Business and Professional Regulation to adopt rules relating to the registry of a broker on a temporary, emergency basis and the reinstatement of a void license due to illness or economic hardship.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 475.15, 475.17, 475.183, 475.611, 475.612, 475.621, 475.629, 475.6295, and 475.631.

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

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

CS/CS by Fiscal Policy on April 2, 2015:

As recommended by the Appropriation Subcommittee on General Government, the CS repeals duplicative language relating to the commission's discretion to reinstate a license that has become void under certain circumstances.

The CS also requires an appraisal management company to prepare and retain an order file for each appraisal, appraisal review or appraisal consulting assignment and sets forth the requirements for what the order file must include.

CS by Regulated Industries Committee on March 4, 2015:

- Deletes the term “licensed” appraiser in regards to provide that it is a certified appraiser that has direct supervision over the registered trainee appraiser.
- Provides that the department must transmit the annual fee that the department must collect from persons who perform or seek to perform appraisers in federally related transactions to the appraisal subcommittee instead of to the Federal Financial Institutions Examinations Council.
- Requires the appraiser's work file contain all other data, information, and documentation required by the standards for the development or communication of a real estate appraisal as approved and adopted by the Appraisal Standards Board of The Appraisal Foundation, as established by rule of the board.

B. Amendments:

None.

By the Committee on Regulated Industries; and Senator Stargel

580-01941-15

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1 A bill to be entitled
 2 An act relating to real estate brokers and appraisers;
 3 amending s. 475.15, F.S.; requiring the Florida Real
 4 Estate Commission to adopt certain rules pertaining to
 5 broker registration on a temporary, emergency basis;
 6 amending s. 475.17, F.S.; clarifying education
 7 requirements that apply for postlicensure and initial
 8 real estate licensure; amending s. 475.183, F.S.;
 9 providing that the commission may reinstate the
 10 license of an individual in certain circumstances;
 11 amending s. 475.611, F.S.; revising the supervision
 12 requirements for registered trainee appraisers;
 13 amending s. 475.612, F.S.; revising the supervision
 14 requirements for select graduate students; amending s.
 15 475.621, F.S.; providing that the department shall
 16 collect annual fees set by and transmitted to the
 17 appraisal subcommittee; amending s. 475.629, F.S.;
 18 requiring an appraiser to prepare and retain a work
 19 file in certain circumstances; requiring the work file
 20 to be retained for a specified period; requiring the
 21 work file to contain certain documents; requiring
 22 appraisal management companies to retain certain
 23 items; removing the prohibition that the Department of
 24 Business and Professional Regulation may not inspect
 25 or copy the records except in certain circumstances;
 26 amending s. 475.6295, F.S.; providing that duly
 27 authorized agents and employees of the department may
 28 inspect an appraisal management company at all
 29 reasonable hours; amending s. 475.631, F.S.; removing

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

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30 the board's authority to enter into written agreements
 31 with similar licensing or certification authorities;
 32 providing an effective date.
 33
 34 Be It Enacted by the Legislature of the State of Florida:
 35
 36 Section 1. Section 475.15, Florida Statutes, is amended to
 37 read:
 38 475.15 Registration and licensing of general partners,
 39 members, officers, and directors of a firm.—Each partnership,
 40 limited liability partnership, limited liability company, or
 41 corporation which acts as a broker shall register with the
 42 commission and shall renew the licenses or registrations of its
 43 members, officers, and directors for each license period.
 44 However, if the partnership is a limited partnership, only the
 45 general partners must be licensed brokers or brokerage
 46 corporations registered pursuant to this part. If the license or
 47 registration of at least one active broker member is not in
 48 force, the registration of a corporation, limited liability
 49 company, limited liability partnership, or partnership is
 50 canceled automatically during that period of time. The
 51 commission shall adopt rules that allow a brokerage to register
 52 a broker on a temporary, emergency basis if a sole broker of a
 53 brokerage dies or is unexpectedly unable to remain a broker.
 54 Section 2. Subsection (6) of section 475.17, Florida
 55 Statutes, is amended to read:
 56 475.17 Qualifications for practice.—
 57 (6) The postlicensure education requirements of this
 58 section, and the education course requirements for one to become

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

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initially licensed, do not apply to any applicant or licensee who has received a 4-year degree, or higher, in real estate from an accredited institution of higher education.

Section 3. Subsection (4) is added to section 475.183, Florida Statutes, to read:

475.183 Inactive status.—

(4) The commission may, at its discretion, reinstate the license of an individual whose license has become void if the commission determines that the individual failed to comply because of illness or economic hardship, as defined by rule. The individual must apply to the commission for reinstatement within 6 months after the date that the license becomes void. Such individual must meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this section.

Section 4. Paragraph (r) of subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

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

(r) "Registered trainee appraiser" means a person who is registered with the department as qualified to perform appraisal services only under the direct supervision of a ~~licensed or~~ certified appraiser. A registered trainee appraiser may accept appraisal assignments only from her or his primary or secondary supervisory appraiser.

Section 5. Subsection (5) of section 475.612, Florida Statutes, is amended to read:

475.612 Certification, licensure, or registration required.—

580-01941-15

2015608c1

(5) This section does not apply to any full-time graduate student who is enrolled in a degree program in appraising at a college or university in this state, if the student is acting under the direct supervision of a ~~certified or licensed~~ appraiser and is engaged only in appraisal activities related to the approved degree program. Any appraisal report by the student must be issued in the name of the supervising individual who is responsible for the report's content.

Section 6. Subsection (2) of section 475.621, Florida Statutes, is amended to read:

475.621 Registry of licensed and certified appraisers.—

(2) The department shall collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual fee as set by, and transmitted to, the appraisal subcommittee ~~to be transmitted to the Federal Financial Institutions Examinations Council on an annual basis.~~

Section 7. Section 475.629, Florida Statutes, is amended to read:

475.629 Retention of records.—An appraiser registered, licensed, or certified under this part or an appraisal management company registered under this part shall prepare and retain a work file for each appraisal, appraisal review, or appraisal consulting assignment. This work file shall be retained, for 5 years or the period specified in the Uniform Standards of Professional Appraisal Practice, whichever is greater. ~~The work file shall contain~~ original or true copies of any contracts engaging the appraiser's or appraisal management company's services, appraisal reports, and supporting data assembled and formulated by the appraiser or company in

580-01941-15

2015608c1

117 preparing appraisal reports or engaging in appraisal management
 118 services and all other data, information, and documentation
 119 required by the standards for the development or communication
 120 of a real estate appraisal as approved and adopted by the
 121 Appraisal Standards Board of The Appraisal Foundation, as
 122 established by rule of the board. Except as otherwise specified
 123 in the Uniform Standards of Professional Appraisal Practice, the
 124 period for retention of the records applicable to each
 125 engagement of the services of the appraiser or appraisal
 126 management company runs from the date of the submission of the
 127 appraisal report to the client. Appraisal management companies
 128 shall also retain the company accounts, correspondence,
 129 memoranda, papers, books, and other records in accordance with
 130 administrative rules adopted by the board. These records must be
 131 made available by the appraiser or appraisal management company
 132 for inspection and copying by the department upon reasonable
 133 notice to the appraiser or company. ~~However, the department may~~
 134 ~~not inspect or copy the records of an appraisal management~~
 135 ~~company except in connection with a pending investigation or~~
 136 ~~complaint.~~ If an appraisal has been the subject of or has served
 137 as evidence for litigation, reports and records must be retained
 138 for at least 2 years after the trial or the period specified in
 139 the Uniform Standards of Professional Appraisal Practice,
 140 whichever is greater.

141 Section 8. Section 475.6295, Florida Statutes, is amended
 142 to read:

143 475.6295 Authority to inspect.—Duly authorized agents and
 144 employees of the department shall have the power to inspect in a
 145 lawful manner at all reasonable hours any appraisal management

Page 5 of 7

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

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146 company, appraiser or appraisal office certified, registered, or
 147 licensed under this chapter, for the purpose of determining if
 148 any of the provisions of this chapter, chapter 455, or any rule
 149 promulgated under authority of either chapter is being violated.

150 Section 9. Section 475.631, Florida Statutes, is amended to
 151 read:

152 475.631 Nonresident licenses and certifications.—

153 ~~(1) Notwithstanding the requirements for certification set~~
 154 ~~forth in ss. 475.615 and 475.616, the board may enter into~~
 155 ~~written agreements with similar licensing or certification~~
 156 ~~authorities of other states, territories, or jurisdictions of~~
 157 ~~the United States to ensure for state-certified appraisers~~
 158 ~~nonresident licensure or certification opportunities comparable~~
 159 ~~to those afforded to nonresidents by this section. Whenever the~~
 160 ~~board determines that another jurisdiction does not offer~~
 161 ~~nonresident licensure or certification to state-certified~~
 162 ~~appraisers substantially comparable to those afforded to~~
 163 ~~certified appraisers or licensees of that jurisdiction by this~~
 164 ~~section, the board shall require certified appraisers or~~
 165 ~~licensees of that jurisdiction who apply for nonresident~~
 166 ~~certification to meet education, experience, and examination~~
 167 ~~requirements substantially comparable to those required by that~~
 168 ~~jurisdiction with respect to state-certified appraisers who seek~~
 169 ~~nonresident licensure or certification, not to exceed such~~
 170 ~~requirements as are prescribed in ss. 475.615 and 475.616.~~

171 (1)(2)(a) Any resident state-certified appraiser who
 172 becomes a nonresident shall, within 60 days, notify the board of
 173 the change in residency and comply with nonresident
 174 requirements. Failure to notify and comply is a violation of the

Page 6 of 7

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175 license law, subject to the penalties in s. 475.624.
176 (2) ~~(b)~~ All nonresident applicants, certified appraisers,
177 and licensees shall comply with all requirements of board rules
178 and this part. The board may adopt rules pursuant to ss.
179 120.536(1) and 120.54 necessary for the regulation of
180 nonresident certified appraisers and licensees.
181 Section 10. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

SENATOR KELLI STARGEL

15th District

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

March 18, 2015

The Honorable Anitere Flores
Senate Fiscal Policy Committee, Chair
413 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Flores:

I am respectfully requesting that SB 608, related to *Real Estate Brokers and Appraisers*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kelli Stargel
State Senator, District 15

Cc: Jennifer Hrdlicka/ Staff Director
Tamra Lyon/ AA

REPLY TO:

- ☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- ☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/15

Meeting Date

608

Bill Number (if applicable)

Topic Real Estate

Amendment Barcode (if applicable)

Name DAVID MILA, Jr.

Job Title Deputy Director Legislative Affairs

Address _____

Phone 850-487-4827

Street

Tallahassee

FL

State

32303

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Department of Business & Professional Regulation

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)

4/2/15

Meeting Date

608

Bill Number (if applicable)

963650

Amendment Barcode (if applicable)

Topic Appraisal Management Companies

Name SCOTT JENKINS

Job Title SVP/State Gov't Relations Director

Address 150 S. Monroe St.

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850.320.1053

Email christopher.s.jenkins@wellsfargo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing WELLS FARGO

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
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 Fiscal Policy

BILL: SB 676

INTRODUCER: Senator Benacquisto

SUBJECT: Voluntary Contributions to End Breast Cancer

DATE: April 1, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Eichin	TR	Favorable
2.	Gusky	Miller	ATD	Recommend: Favorable
3.	Jones	Hrdlicka	FP	Favorable

I. Summary:

SB 676 authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to collect, for the Florida Breast Cancer Coalition Research Foundation, Inc., a voluntary contribution of \$1 or more per applicant to through the motor vehicle registration, driver license, and identification card application forms.

The cost to redesign and develop the new application forms is \$55,040, which will be partially offset by the Florida Breast Cancer Foundation's \$20,000 application fees. The DHSMV will absorb the remaining \$35,040 in expenditures.

II. Present Situation:

The application forms for motor vehicle registration and renewal, a driver license or replacement driver license, or an identification card all provide a voluntary contributions section that allows applicants the opportunity to make a donation by checking a box on the form.¹

The Florida Statutes specifically authorize which organizations can receive a voluntary contribution. Section 320.023, F.S., establishes the requirements for organizations seeking to establish a voluntary contribution on motor vehicle registration application forms, and s. 322.081, F.S., establishes similar requirements for driver license and identification card applications. Both sections require:

- A request for the voluntary contribution being sought, describing the voluntary contribution in general terms;

¹ Sections 320.02(8), (14), and (15) and 328.72(11) and (16), F.S., provide motor vehicle registration applicants with 26 options for voluntary contributions. Section 322.08(7), F.S., provides driver license and identification card applicants with 19 options for voluntary contributions.

- An application fee², not to exceed \$10,000, to defray the DHSMV's cost for reviewing the application and developing the voluntary contribution check off, if authorized;
- A marketing strategy outlining short-term and long-term marketing plans for the contribution; and
- A financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the contributions.

This information must be submitted to the DHSMV at least 90 days before the next regular session of the Legislature convenes.

Florida Breast Cancer Foundation

The Florida Breast Cancer Foundation (FBCF) is a not-for-profit statewide organization dedicated to ending breast cancer through advocacy, education, and research.³ The FBCF is best known for their role in the passage of the "Mary Brogan Breast and Cervical Cancer Treatment Act" and the "End Breast Cancer" specialty license plate, the fees from which the FBCF awards to breast cancer research and education throughout Florida.⁴ The FBCF created the Florida Breast Cancer Coalition Research Foundation, Inc., to receive funds from the "End Breast Cancer" specialty plate, which received annual use fees from approximately 19,000 specialty plates in 2014.⁵

The DHSMV has reviewed the FBCF's application and determined it is in compliance with requirements of ss. 320.023 and 322.081, F.S. The DHSMV has approved the FBCF to pursue legislation to create a voluntary contribution check-off on motor vehicle registration and driver license renewal notices.⁶

III. Effect of Proposed Changes:

The bill authorizes the DHSMV to include language permitting a voluntary contribution of \$1 or more per applicant to End Breast Cancer on motor vehicle registration and registration renewal forms and forms for original, renewal, or replacement driver licenses or identification cards. Such contributions will be distributed by the DHSMV to the Florida Breast Cancer Coalition Research Foundation, Inc. The bill specifies that the contributions collected from the motor vehicle registration forms are to be used for breast cancer research and education.

The bill takes effect July 1, 2015.

² State funds may not be used to pay the application fee.

³ Florida Breast Cancer Foundation, *About Us*, available at <http://www.floridabreastcancer.org> (last visited Mar. 26, 2015).

⁴ *Id.* See ss. 320.08058(33) and 381.93, F.S.

⁵ *Id.* Department of Highway Safety and Motor Vehicles, 2014 Specialty License Plate Rankings, Jan. 2015, available at <http://www.flhsmv.gov/specialtytags/tagsales.pdf> (last visited Mar. 26, 2015).

⁶ Letter from Terry L. Rhodes, Executive Director, Department of Highway Safety and Motor Vehicles (Jan. 12, 2015) (on file with the Senate Committee on Transportation).

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:

Under the bill, individuals may choose to donate to the Florida Breast Cancer Coalition Research Foundation, Inc., which will benefit that organization.

C. Government Sector Impact:

The cost to redesign and develop the new application forms is \$55,040, which will be partially offset by the FBCF's \$20,000 application fee. The DHSMV will absorb the remaining \$35,040 in expenditures.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

While the DHSMV is authorized to collect contributions under the bill, the bill does not specify that the contributions collected from the driver license or identification card application forms must be used for breast cancer research and education. The bill does specify the use for the contributions collected from the motor vehicle registration forms.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.02 and 322.08.

⁷ Department of Highway Safety and Motor Vehicles, *Senate Bill 676 Analysis* (Feb. 13, 2015) (on file with the Senate Committee on Transportation).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Benacquisto

30-00706-15

2015676__

1 A bill to be entitled
 2 An act relating to voluntary contributions to End
 3 Breast Cancer; amending s. 320.02, F.S.; requiring the
 4 application forms for motor vehicle registration and
 5 renewal of registration to include language permitting
 6 the applicant to make a voluntary contribution to End
 7 Breast Cancer to be distributed to a specified
 8 organization and used for specified purposes; amending
 9 s. 322.08, F.S.; requiring an application form for a
 10 driver license or identification card to include
 11 language permitting the applicant to make a voluntary
 12 contribution to End Breast Cancer to be distributed to
 13 a specified organization; providing an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraph (u) is added to subsection (15) of
 18 section 320.02, Florida Statutes, to read:
 19 320.02 Registration required; application for registration;
 20 forms.—
 21 (15)
 22 (u) The application form for motor vehicle registration and
 23 renewal of registration must include language permitting a
 24 voluntary contribution of \$1 or more per applicant to End Breast
 25 Cancer. Such contributions shall be distributed by the
 26 department to the Florida Breast Cancer Coalition Research
 27 Foundation, Inc., an organization not-for-profit under s.
 28 501(c)(3) of the Internal Revenue Code, and shall be used for
 29 breast cancer research and education.

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30
 31 For the purpose of applying the service charge provided in s.
 32 215.20, contributions received under this subsection are not
 33 income of a revenue nature.
 34 Section 2. Subsection (7) of section 322.08, Florida
 35 Statutes, is amended to read:
 36 322.08 Application for license; requirements for license
 37 and identification card forms.—
 38 (7) The application form for an original, renewal, or
 39 replacement driver license or identification card must include
 40 language permitting the following:
 41 (a) A voluntary contribution of \$1 per applicant, which
 42 contribution shall be deposited into the Health Care Trust Fund
 43 for organ and tissue donor education and for maintaining the
 44 organ and tissue donor registry.
 45 (b) A voluntary contribution of \$1 per applicant, which
 46 shall be distributed to the Florida Council of the Blind.
 47 (c) A voluntary contribution of \$2 per applicant, which
 48 shall be distributed to the Hearing Research Institute,
 49 Incorporated.
 50 (d) A voluntary contribution of \$1 per applicant, which
 51 shall be distributed to the Juvenile Diabetes Foundation
 52 International.
 53 (e) A voluntary contribution of \$1 per applicant, which
 54 shall be distributed to the Children's Hearing Help Fund.
 55 (f) A voluntary contribution of \$1 per applicant, which
 56 shall be distributed to Family First, a nonprofit organization.
 57 (g) A voluntary contribution of \$1 per applicant to Stop
 58 Heart Disease, which shall be distributed to the Florida Heart

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Research Institute, a nonprofit organization.

(h) A voluntary contribution of \$1 per applicant to Senior Vision Services, which shall be distributed to the Florida Association of Agencies Serving the Blind, Inc., a not-for-profit organization.

(i) A voluntary contribution of \$1 per applicant for services for persons with developmental disabilities, which shall be distributed to The Arc of Florida.

(j) A voluntary contribution of \$1 to the Ronald McDonald House, which shall be distributed each month to Ronald McDonald House Charities of Tampa Bay, Inc.

(k) Notwithstanding s. 322.081, a voluntary contribution of \$1 per applicant, which shall be distributed to the League Against Cancer/La Liga Contra el Cancer, a not-for-profit organization.

(l) A voluntary contribution of \$1 per applicant to Prevent Child Sexual Abuse, which shall be distributed to Lauren's Kids, Inc., a nonprofit organization.

(m) A voluntary contribution of \$1 per applicant, which shall be distributed to Prevent Blindness Florida, a not-for-profit organization, to prevent blindness and preserve the sight of the residents of this state.

(n) Notwithstanding s. 322.081, a voluntary contribution of \$1 per applicant to the state homes for veterans, to be distributed on a quarterly basis by the department to the State Homes for Veterans Trust Fund, which is administered by the Department of Veterans' Affairs.

(o) A voluntary contribution of \$1 per applicant to the Disabled American Veterans, Department of Florida, which shall

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be distributed quarterly to Disabled American Veterans, Department of Florida, a nonprofit organization.

(p) A voluntary contribution of \$1 per applicant for Autism Services and Supports, which shall be distributed to Achievement and Rehabilitation Centers, Inc., Autism Services Fund.

(q) A voluntary contribution of \$1 per applicant to Support Our Troops, which shall be distributed to Support Our Troops, Inc., a Florida not-for-profit organization.

(r) A voluntary contribution of \$1 or more per applicant, which shall be distributed to the Auto Club Group Traffic Safety Foundation, Inc., a not-for-profit organization.

(s) Notwithstanding s. 322.081, a voluntary contribution of \$1 per applicant to aid the homeless. Contributions made pursuant to this paragraph shall be deposited into the Grants and Donations Trust Fund of the Department of Children and Families and used by the State Office on Homelessness to supplement grants made under s. 420.622(4) and (5), provide information to the public about homelessness in the state, and provide literature for homeless persons seeking assistance.

(t) A voluntary contribution of \$1 or more per applicant to End Breast Cancer, which shall be distributed to the Florida Breast Cancer Coalition Research Foundation, Inc., a not-for-profit organization.

A statement providing an explanation of the purpose of the trust funds shall also be included. For the purpose of applying the service charge provided under s. 215.20, contributions received under paragraphs (b)-(t) ~~(b)-(s)~~ are not income of a revenue nature.

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2015676__

117

Section 3. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/15

Meeting Date

676

Bill Number (if applicable)

Topic Voluntary Contribution/Breast Cancer

Amendment Barcode (if applicable)

Name Kelly Malette

Job Title _____

Address 104 West Jefferson Street

Street

Phone (850) 224-3427

Tallahassee, FL 32301

City

State

Zip

Email kelly@rlbroadpa.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Breast Cancer Foundation

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

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Appropriations, *Vice Chair*
Appropriations Subcommittee on Health
and Human Services
Education Pre-K-12
Higher Education
Judiciary
Rules

SENATOR LIZBETH BENACQUISTO
30th District

JOINT COMMITTEE:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

March 25, 2015

The Honorable Anitere Flores
Senate Community Affairs, Chair
413 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB676- End Breast Cancer

Dear Madam. Chair:

Please allow this letter to serve as my respectful request to agenda SB 676, Relating to End Breast Cancer, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script, reading "Lizbeth Benacquisto".

Lizbeth Benacquisto
Senate District 30

Cc: Jennifer Hrdlicka

REPLY TO:

- ☐ 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 842

INTRODUCER: Banking and Insurance Committee and Senator Benacquisto

SUBJECT: Citizens Property Insurance Corporation Eligibility for Coverage

DATE: April 1, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2. <u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3. <u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 842 revises current law to allow Citizens Property Insurance Corporation to provide coverage on major structures located seaward of the Coastal Construction Control Line or within a Coastal Barrier Resources System that are rebuilt, repaired, restored, or remodeled, pursuant to permits applied for after July 1, 2015, as long as the construction does not increase the total square footage of the finished area by more than 25 percent.

II. Present Situation:

Citizens Property Insurance Corporation

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. Citizens is not a private insurance company.¹

Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association.² Citizens offers property insurance in three separate accounts.

¹ Section 627.351(6)(a), F.S. Admitted market means insurance companies licensed to transact insurance in Florida.

² Chapter 2002-240, L.O.F.

The Personal Lines Account (PLA) offers personal lines residential comprehensive, multiperil policies:

- With wind coverage on properties located outside the Coastal Account area; and
- Without wind coverage, on properties located within the Coastal Account area.³

The Commercial Lines Account (CLA) offers commercial lines residential and nonresidential basic perils policies:

- With wind coverage on properties located outside the Coastal Account area; and
- Without wind coverage, on properties located within the Coastal Account area.⁴

The Coastal Account offers personal residential, commercial residential, and commercial non-residential policies in the coastal areas⁵ of the state. The Coastal Account must offer exclusively wind coverage policies, and may offer multiperil policies.⁶

Eligibility for Insurance in Citizens

Citizens provides specific eligibility requirements based on premium amounts, value of the property insured, and the location of the property.⁷ Risks not meeting the statutory eligibility requirements cannot be insured by Citizens.

For example, any major structure⁸ that is newly constructed or substantially improved,⁹ pursuant to a building permit applied for on or after July 1, 2015, is not eligible for Citizens coverage if the structure is located:

- Seaward of the Coastal Construction Control Line (CCCL) or
- Within the Coastal Barrier Resources System (CBRS).¹⁰

Coastal Construction Control Line

The purpose of the CCCLs is to preserve and protect beaches from imprudent construction that can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access. Specifically, the CCCLs are drawn to protect portions of the beach-dune system subject

³ Section 627.351(6)(b)2.a., F.S.

⁴ *Id.*

⁵ *Id.* The areas included in the Coastal Account are those areas that were eligible for coverage by the Florida Windstorm Underwriting Association on January 1, 2002. Florida Windstorm Underwriting was assumed by Citizens in 2002.

⁶ *Id.* In August of 2007, Citizens began offering personal and commercial residential multiperil policies in this limited eligibility area. Additionally, near the end of 2008, Citizens began offering commercial non-residential multiperil policies in this account. Effective July 1, 2014, Citizens may only offer commercial residential wind-only policies, and may offer commercial residential policies excluding wind.

⁷ Section 627.351(6)(a) and (c), F.S.

⁸ A “major structure” is defined as “houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.” s. 161.54(6)(a), F.S.

⁹ A “substantial improvement” is defined in part as “any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or if the structure has been damaged and is being restored, before the damage occurred.” s. 161.54(12), F.S.

¹⁰ Section 627.351(6)(a)5.b., F.S.

to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions.¹¹ A permit is required to build seaward of the CCCL and the rules and procedures for obtaining such a permit are contained in Ch. 62B-33, F.A.C.¹²

Coastal Barrier Resources System

CBRS is part of the Coastal Barrier Resources Act (act).¹³ The CBRS consists of undeveloped coastal barriers located on the coasts of the United States. The act limited federal spending and financial assistance in an effort to discourage development within the CBRS. While the act does not prohibit privately financed development, it does prohibit new federal financial assistance, including the purchasing of federal flood insurance. There are 128 designated coastal barriers within Florida, including the entirety of the Florida Keys.¹⁴

III. Effect of Proposed Changes:

The bill allows Citizens to provide coverage on a major structure located seaward of the CCCL or within a CBRS that is rebuilt, repaired, restored, or remodeled, pursuant to a permit applied for after July 1, 2015, as long as the construction does not increase the total square footage of the finished area by more than 25 percent.

The bill retains the prohibition that newly constructed major structures, pursuant to permits applied for after July 1, 2015, are not eligible for coverage by Citizens.

The bill is effective July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not affect counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ Section 161.053(1)(a), F.S.

¹² Florida Department of Environmental Protection, *The Coastal Construction Control Line Permitting*, available at <http://www.dep.state.fl.us/beaches/programs/ccclprog.htm> (last visited Mar. 30, 2015).

¹³ 16 U.S.C. 3501-3510.

¹⁴ U.S. Fish and Wildlife Service, *Coastal Barrier Resources Act*, (Mar, 10, 2015), available at <http://www.fws.gov/CBRA/Act/index.html> (last visited Mar. 27, 2015).

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

None.

B. Private Sector Impact:

Property owners in the Florida Keys and other areas along the coast, who rebuild, repair, restore, or remodel major structures seaward of the CCCL or within a CBRS can remain eligible for coverage by Citizens as long as the structure does not increase the size to greater than 125 percent of the original building's square footage of finished area. This will prevent certain circumstances where an insured is unable to obtain coverage for the property, particularly in coastal areas for which Citizens may be the only option for obtaining insurance. Under current law, a Citizens policyholder in these areas could incur a major loss, rebuild their home to the same or similar size, and be ineligible for coverage by Citizens.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.351 of the Florida Statutes.

The bill reenacts section 627.712 of the Florida Statutes.

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

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

CS by Banking and Insurance on March 10, 2015:

Clarified the square footage limitations of the bill apply to total square footage of finished space as defined by the American National Standard Institute.¹⁵

B. Amendments:

None.

¹⁵ American National Standards Institute, *Z765-Square Footage-Method for Calculating*, 2003.

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

By the Committee on Banking and Insurance; and Senator Benacquisto

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A bill to be entitled

An act relating to Citizens Property Insurance Corporation eligibility for coverage; amending s. 627.351, F.S.; deleting a provision prohibiting certain improvements to major structures from being eligible for coverage by the Citizens Property Insurance Corporation; prohibiting coverage for major structures rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area by a specified amount; reenacting s. 627.712(1), F.S., relating to residential windstorm coverage, to incorporate the amendment made by this act to s. 627.351, F.S.; providing an effective date.

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

Section 1. Paragraph (a) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a) The public purpose of this subsection is to ensure that there is an orderly market for property insurance for residents and businesses of this state.

1. The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic health of the state. The state therefore has a compelling public

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

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interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare, to the economy of the state, and to the revenues of the state and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends, therefore, that affordable property insurance be provided and that it continue to be provided, as long as necessary, through Citizens Property Insurance Corporation, a government entity that is an integral part of the state, and that is not a private insurance company. To that end, the corporation shall strive to increase the availability of affordable property insurance in this state, while achieving efficiencies and economies, and while providing service to policyholders, applicants, and agents which is no less than the quality generally provided in the voluntary market, for the achievement of the foregoing public purposes. Because it is essential for this government entity to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the corporation continue to be an integral part of the state and that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

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2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are entitled, but, in good faith, are unable to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner, mobile home owner, dwelling, tenant, condominium unit owner, and similar policies; and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

3. With respect to coverage for personal lines residential structures:

a. Effective January 1, 2014, a structure that has a dwelling replacement cost of \$1 million or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$1 million or more is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2013, may continue to be covered by the corporation until the end of the policy term. The office

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shall approve the method used by the corporation for valuing the dwelling replacement cost for the purposes of this subparagraph. If a policyholder is insured by the corporation before being determined to be ineligible pursuant to this subparagraph and such policyholder files a lawsuit challenging the determination, the policyholder may remain insured by the corporation until the conclusion of the litigation.

b. Effective January 1, 2015, a structure that has a dwelling replacement cost of \$900,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$900,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2014, may continue to be covered by the corporation only until the end of the policy term.

c. Effective January 1, 2016, a structure that has a dwelling replacement cost of \$800,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$800,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2015, may continue to be covered by the corporation until the end of the policy term.

d. Effective January 1, 2017, a structure that has a dwelling replacement cost of \$700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2016, may continue to be covered by the corporation until the end of the policy term.

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The requirements of sub-subparagraphs b.-d. do not apply in counties where the office determines there is not a reasonable degree of competition. In such counties a personal lines residential structure that has a dwelling replacement cost of less than \$1 million, or a single condominium unit that has a combined dwelling and contents replacement cost of less than \$1 million, is eligible for coverage by the corporation.

4. It is the intent of the Legislature that policyholders, applicants, and agents of the corporation receive service and treatment of the highest possible level but never less than that generally provided in the voluntary market. It is also intended that the corporation be held to service standards no less than those applied to insurers in the voluntary market by the office with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders, applicants, or agents of the corporation.

5.a. Effective January 1, 2009, a personal lines residential structure that is located in the "wind-borne debris region," as defined in s. 1609.2, International Building Code (2006), and that has an insured value on the structure of \$750,000 or more is not eligible for coverage by the corporation unless the structure has opening protections as required under the Florida Building Code for a newly constructed residential structure in that area. A residential structure is deemed to comply with this sub-subparagraph if it has shutters or opening protections on all openings and if such opening protections complied with the Florida Building Code at the time they were installed.

b. Any major structure, as defined in s. 161.54(6)(a),

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which is newly constructed or rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area by more than 25 percent pursuant to for which a permit is applied for on or after July 1, 2015, for new construction or substantial improvement as defined in s. 161.54(12) is not eligible for coverage by the corporation if the structure is seaward of the coastal construction control line established pursuant to s. 161.053 or is within the Coastal Barrier Resources System as designated by 16 U.S.C. ss. 3501-3510.

6. With respect to wind-only coverage for commercial lines residential condominiums, effective July 1, 2014, a condominium shall be deemed ineligible for coverage if 50 percent or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days.

Section 2. For the purpose of incorporating the amendment made by this act to section 627.351, Florida Statutes, in a reference thereto, subsection (1) of section 627.712, Florida Statutes, is reenacted to read:

627.712 Residential windstorm coverage required; availability of exclusions for windstorm or contents.—

(1) An insurer issuing a residential property insurance policy must provide windstorm coverage. Except as provided in paragraph (2)(c), this section does not apply to risks that are eligible for wind-only coverage from Citizens Property Insurance Corporation under s. 627.351(6), and risks that are not eligible for coverage from Citizens Property Insurance Corporation under s. 627.351(6)(a)3. or 5. A risk ineligible for coverage by the corporation under s. 627.351(6)(a)3. or 5. is exempt from this section only if the risk is located within the boundaries of the

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175 coastal account of the corporation.

176 Section 3. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Appropriations, *Vice Chair*
Appropriations Subcommittee on Health
and Human Services
Education Pre-K-12
Higher Education
Judiciary
Rules

SENATOR LIZBETH BENACQUISTO
30th District

JOINT COMMITTEE:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

March 25, 2015

The Honorable Anitere Flores
Senate Community Affairs, Chair
413 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB842- Citizen's Property Insurance

Dear Madam, Chair:

Please allow this letter to serve as my respectful request to agenda SB 842, Relating to Citizen's Property Insurance, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lizbeth Benacquisto".

Lizbeth Benacquisto
Senate District 30

Cc: Jennifer Hrdlicka

REPLY TO:

- ☐ 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 1220

INTRODUCER: Fiscal Policy Committee and Senator Grimsley and others

SUBJECT: Cattle Market Development Act

DATE: April 3, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Becker</u>	<u>Becker</u>	<u>AG</u>	Favorable
2. <u>Blizzard</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Favorable
3. <u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1220 revises the Beef Market Development Act by:

- Renaming the act as the Cattle Market Development Act, and the Florida Beef Council, Inc., as the Florida Cattle Enhancement Board, Inc.;
- Requiring the Commissioner of Agriculture to appoint all board members;
- Revising the powers and duties of the board;
- Repealing the provisions for referendum for a state assessment program; and
- Providing that the act sunsets on October 1, 2020, unless saved from repeal by the Legislature.

The bill has no fiscal impact.

II. Present Situation:

The Beef Research and Information Act, part of the 1985 Farm Bill, created a producer-funded beef promotion and research program called the national Beef Checkoff Program to build demand for beef and beef products domestically and internationally.¹ The checkoff is a \$1 per head assessment on the sale of live domestic and imported cattle and imported beef and beef

¹ The U.S. Department of Agriculture developed a Beef Promotion and Research Order, pursuant to the act, that directs the program's operation. 7 U.S.C. 2901-2911. See also Cattlemen's Beef Promotion and Research Board, *Beef Act and Order*, available at http://www.beefboard.org/library/beefact_order.asp (last visited 3/29/2015).

products that was approved by 79 percent of producers in 1988.² The checkoff assessment is collected by state beef councils, which retain 50 cents of each dollar and send the other 50 cents to the Cattlemen's Beef Promotion and Research Board. The funds are expended on advertising, marketing, education, and research – all aimed at stimulating beef sales.

In 2003 the U.S. Court of Appeals of the 8th Circuit affirmed a decision of the U.S. District Court in South Dakota, holding that the national Beef Checkoff Program was unconstitutional.³ The beef producers in Florida resolved that it was in their interest to have a state-level program on stand-by if the national program was ruled unconstitutional by the U.S. Supreme Court. In response, the 2004 Legislature established the Beef Market Development Act⁴ (act) to:

- Promote the growth of the cattle industry in this state;
- Assure the public an adequate and wholesome food supply;
- Provide for the general economic welfare of producers and consumers of beef and the state; and
- Provide the beef cattle production and feeding industry of this state with the authority to establish a self-financed, self-governed program to help develop, maintain, and expand the state, national, and foreign markets for beef and beef products that are produced, processed, or manufactured in this state.

The act established a not-for-profit corporation, the Florida Beef Council (council), organized to operate as a direct-support organization under the Florida Department of Agriculture and Consumer Services.⁵ The act also:

- Established the council's governance structure through a 13-member board of directors;
- Established the powers and duties of the council;
- Directed the council to adopt bylaws to carry out the intent and purposes of the act;
- Established procedures for a referendum on assessments up to \$1 per head of cattle;
- Set forth procedures for the collection and remission of assessments at the time of sale by a collection agent;
- Established procedures for a producer of cattle to obtain a full refund upon request within 45 days after the sale transaction takes place; and
- Provided that a referendum to vote to continue the act could be held once in a three-year period if certain criteria were met.

The act was effective upon becoming law, but the referendum and assessment could not be imposed until the national checkoff program was repealed, stayed, or enjoined by the U.S. Congress, by a court, or by other operation of law. In 2005, the U.S. Supreme Court ruled that the national checkoff program was constitutional, so the assessment provided for in the Florida act was never implemented.⁶ The council created in the act, though, does implement the national checkoff program.⁷

² Cattlemen's Beef Promotion and Research Board, *Who We Are*, available at <http://www.beefboard.org/about/howeare.asp> (last visited 3/29/2015).

³ *Livestock Marketing Ass'n v. U.S. Dept. of Agriculture*, 335 F.3d 711 (8th Cir. 2003).

⁴ Chapter 2004-65, L.O.F.

⁵ Section 570.83, F.S. The statute was renumbered as s. 570.83, F.S., from 570.8135, F.S., in 2014. ch. 2014-150, L.O.F.

⁶ *Johans v. Livestock Marketing Ass'n*, 544 U.S. 550 (2005).

⁷ See Florida Beef Council, *About the Florida Beef Council*, available at <http://floridabeefcouncil.org/aboutfbc.aspx> (last visited 3/29/2015).

III. Effect of Proposed Changes:

This bill amends s. 570.83, F.S., to revise the Beef Market Development Act.

The bill renames the “Beef Market Development Act” as the “Cattle Market Development Act” and renames the Florida Beef Council, Inc., as the Florida Cattle Enhancement Board, Inc. The bill adds an additional member to the board, a representative from the Florida Department of Agriculture and Consumer Services, to make the total membership of the board 14 members.⁸ The bill provides for staggered terms for members for the initial appointments. All appointments will be made by the Commissioner of Agriculture.

The bill grants the board similar powers as the former Florida Beef Council, while removing duplicative powers and consolidating the governing language into one subsection. The bill repeals provisions that would allow the board to maintain a financial reserve for emergency use and to appoint advisory groups.

The bill repeals all provisions related to referendum for and administration of an assessment program of up to \$1 per head of cattle.

The bill revises the definition of “cattle” to eliminate the provision that a cow and nursing calf sold together are considered one unit.

The bill moves the sunset date of the act to October 1, 2020. This provision currently provides that the act is repealed on October 1, 2019, unless saved from repeal by the Legislature, and was added to the statute in 2014 pursuant to ch. 2014-96, L.O.F., which created new reporting and transparency requirements for each citizen support organization and direct support organization that is created, approved, or administered by a state agency.⁹

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not contain a mandate because it does not affect counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁸ Current law allows for the appointment of a representative of the department to serve ex officio. s. 570.83(5)(c), F.S.

⁹ Senate 2014 Bill Summaries, CS/SB 1194 – Citizen Support and Direct-support Organizations.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 570.83 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 Fiscal Policy on April 2, 2015:**

The committee substitute differs from the bill in the following ways:

- Repeals all provisions related to referendum for and administration of an assessment program of up to \$1 per head of cattle.
- Requires all board members to be appointed by the Commissioner of Agriculture.
- Restores the ability of the board to maintain certain records, prepare an annual report for the industry and Department of Agriculture and Consumer Services, provide information to governmental bodies, accept grants and gifts, make payments to organizations for services performed, and to sue and be sued without individual liability of the members.
- Sunsets the statute on October 1, 2020.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 570.83, Florida Statutes, is amended to
read:

570.83 Cattle ~~Beef~~ Market Development Act; definitions;
Florida Cattle Enhancement Board ~~Beef Council~~, Inc., creation,
purposes, governing board, powers, and duties; ~~referendum on~~
~~assessments imposed on gross receipts from cattle sales;~~
payments to organizations for services; ~~collecting and refunding~~



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assessments; vote on continuing the act; board council bylaws.-

(1) SHORT TITLE ~~POPULAR NAME~~.—This section act may be cited as the "Cattle Beef Market Development Act."

(2) LEGISLATIVE INTENT.—The Legislature intends by this act to promote the growth of the cattle industry in this state; to assure the public an adequate and wholesome food supply; to provide for the general economic welfare of producers and consumers of beef and the state; and to provide the ~~beef~~ cattle ~~production and feeding~~ industry of this state with the authority to establish a ~~self-financed~~, self-governed program to help develop, maintain, and expand the state, national, and foreign markets for beef and beef products that are produced, processed, or manufactured in this state.

(3) DEFINITIONS.—As used in this section act, the term:

(a) "Beef" or "beef products" means the products of beef intended for human consumption which are derived from any bovine animal, regardless of age, including, but not limited to, veal.

~~(c)-(b)~~ (c) "Cattle" means such animals as are so designated by federal law, including any marketing, promotion, and research orders as are in effect. Unless such federal law provides to the contrary, the term "cattle" includes all bovine animals, regardless of age, including, but not limited to, calves. ~~A cow and nursing calf sold together are considered one unit.~~

~~(b)-(e)~~ (b) "Board" or "Florida Cattle Enhancement Board" ~~"Council"~~ means the Florida Cattle Enhancement Board Beef ~~Council~~, Inc.

(d) "Department" means the Department of Agriculture and Consumer Services.

~~(e) "Collection agent" means a person who sells, offers for~~



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~~sale, markets, distributes, trades, or processes cattle that have been purchased or acquired from a producer or that are marketed on behalf of a producer. The term also includes meatpacking firms and their agents that purchase or consign to purchase cattle.~~

~~(e)(f)~~ "Person" means any natural person, partnership, corporation, company, association, society, trust, or other business unit or organization.

~~(f)(g)~~ "Producer" means a person that has owned or sold cattle in the previous calendar year or presently owns cattle.

(4) FLORIDA CATTLE ENHANCEMENT BOARD ~~BEEF COUNCIL~~, INC.;
CREATION; PURPOSES.—

(a) There is created the Florida Cattle Enhancement Board ~~Beef Council~~, Inc., a not-for-profit corporation organized under the laws of this state for the purpose of ~~and~~ operating as a direct-support organization to ~~of~~ the department pursuant to this section.

~~(b) The council is authorized to impose an assessment of not more than \$1 on each head of cattle sold in the state if the imposition of the assessment is approved by referendum pursuant to subsection (6). The proceeds of the assessment shall be used to fund the activities of the council. The council shall:~~

~~1. Establish the amount of the assessment at not more than \$1 per head of cattle.~~

~~2. Develop, implement, and monitor a collection system for the assessment.~~

~~3. Coordinate the collection of the assessment with other states.~~

~~4. Establish refund procedures.~~



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~~5. Conduct referenda under subsections (6) and (12).~~

~~(c) The council shall:~~

~~1. Plan, implement, and conduct programs of promotion, research, and consumer information or industry information which are designed to strengthen the cattle industry's market position in this state and in the nation and to maintain and expand domestic and foreign markets and expand uses for beef and beef products.~~

~~2. Use the proceeds of the assessment for the purpose of funding cattle production and beef research, education, promotion, and consumer and industry information in this state and in the nation.~~

~~3. Plan and implement a cattle and beef industry feedback program in this state.~~

~~4. Coordinate research, education, promotion, industry, and consumer information programs with any national programs or programs of other states.~~

~~5. Develop new uses and markets for beef and beef products.~~

~~6. Develop and improve methods of distributing beef and beef products to the consumer.~~

~~7. Develop methods of improving the quality of beef and beef products for the benefit of consumers.~~

~~8. Inform and educate the public concerning the nutritive and economic values of beef and beef products.~~

~~9. Serve as a liaison within the beef and other food industries of the state and elsewhere in matters that would increase efficiencies that ultimately benefit both consumers and industry.~~

~~10. Buy, sell, mortgage, rent, or improve, in any manner~~



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~~that the council considers expedient, real property or personal property, or both.~~

~~11. Publish and distribute such papers or periodicals as the board of directors considers necessary to encourage and accomplish the purposes of the council.~~

~~12. Do all other acts necessary or expedient for the administration of the affairs and attainment of the purposes of the council.~~

~~13. Approve an annual plan, budget, and audit for the council.~~

~~(b)(d)1.~~ The board ~~council~~ may not participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. This restriction includes, but is not limited to, a prohibition against publishing or distributing any statements.

~~(c)2. No part of~~ The net receipts of the board may not ~~council shall~~ inure to the benefit of or be distributable to its directors, its officers, or other private persons, except that the board ~~council~~ may pay reasonable compensation for services rendered by staff employees and may make payments and distributions in furtherance ~~of the purposes~~ of this section ~~act~~.

~~(d)3.~~ Notwithstanding any other provision of law, the board ~~council~~ may not carry on any other activities prohibited for not ~~permitted to be carried on:~~

~~1.a. By~~ A corporation exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended; or

~~2.b. By~~ A corporation to which contributions are deductible



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under s. 170(c)(2) of the Internal Revenue Code of 1986, as amended.

(e)~~4.~~ Notwithstanding any other statement of the purposes and responsibilities of the board council, the board council may not engage in any activities or exercise any powers that are not in furtherance of its ~~specific and primary~~ purposes.

(5) GOVERNING BOARD.—

(a) The Florida Cattle Enhancement Board ~~Beef Council, Inc.~~, shall be governed by a board of directors composed of 14 ~~13~~ members as follows:

1. Eight, ~~including 8~~ representatives of the Florida Cattlemen's Association, of whom one is a representative of the Florida Association of Livestock Markets and one is a practicing order buyer.~~†~~

2. One ~~a~~ representative of the Dairy Farmers, Inc.~~†~~

3. One ~~a~~ representative of the Florida CattleWomen, Inc.~~†~~

4. One ~~a~~ representative of the Florida Farm Bureau Federation.~~†~~

5. One representative of an allied-industry.

6. One representative of the department. ~~representative;~~
~~and~~

7. One representative of the ~~an~~ Institute of Food and Agricultural Sciences ~~representative.~~

(b) The initial board of directors shall be appointed by the Commissioner of Agriculture for staggered terms ~~a term~~ of 1 year for three members, 2 years for three members, 3 years for four members, and 4 years for four members. Each subsequent vacancy shall also be filled by the Commissioner of Agriculture ~~with in accordance with the bylaws of the council. Thereafter,~~



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each ~~board~~ member of the board of directors ~~shall be~~ appointed to serve a 3-year term and may be reappointed to serve an additional consecutive term. A member may not serve more than two consecutive terms. A member must be a resident of this state and must be a producer who has been a producer for at least the 5 years immediately preceding the first day of his or her service on the board, except that the representative of the Florida Farm Bureau Federation, the allied-industry representative, the department representative, and the Institute of Food and Agricultural Sciences representative need not be producers. All members of the ~~beef council~~ board of directors ~~positions~~ shall serve without compensation but be unsalaried; ~~however, the board members~~ are entitled to reimbursement as provided in s. 112.061 for travel and other expenses incurred in carrying out ~~the intents and purposes of this section act.~~

(c) The Florida Cattle Enhancement Board ~~council~~ shall provide for its officers through its bylaws, including the ability to set forth offices and responsibilities and form committees necessary for the implementation of this section act. ~~The Commissioner of Agriculture may designate an ex officio nonvoting member of the board of directors.~~

(d) If a member of the board of directors misses three consecutive, officially called meetings, the board of directors may declare that position vacant.

~~(6) REFERENDUM ON ASSESSMENTS. All producers in this state shall have the opportunity to vote in a referendum to determine whether the council shall be authorized to impose an assessment of not more than \$1 per head on cattle sold in the state. The referendum shall pose the question: "Do you approve of an~~



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~~assessment program, up to \$1 per head of cattle pursuant to section 570.83, Florida Statutes, to be funded through specific contributions that are mandatory and refundable upon request?"~~

~~(a) A referendum held under this section must be conducted by secret ballot at extension offices of the Institute of Food and Agricultural Sciences of the University of Florida or at offices of the United States Department of Agriculture with the cooperation of the department.~~

~~(b) Notice of a referendum to be held under this act must be given at least once in trade publications, the public press, and statewide newspapers at least 30 days before the referendum is held.~~

~~(c) Additional referenda may be held to authorize the council to increase the assessment to more than \$1 per head of cattle. Such referendum shall pose the question: "Do you approve of granting the Florida Beef Council, Inc., authority to increase the per-head-of-cattle assessment pursuant to section 570.83, Florida Statutes, from ... (present rate)... to up to a maximum of ... (proposed rate)... per head?" Referenda may not be held more often than once every 3 years.~~

~~(d) Each cattle producer is entitled to only one vote in a referendum held under this section. Proof of identification and cattle ownership must be presented before voting.~~

~~(e) A simple majority of those casting ballots shall determine any issue that requires a referendum under this section.~~

(6) POWERS AND DUTIES OF THE BOARD COUNCIL.-

(a) The board council shall:

1. Serve as a liaison within the beef and other food



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industries of the state and elsewhere in matters that would increase efficiencies that ultimately benefit consumers and the industry.

2. Buy, sell, mortgage, rent, or improve, in any manner that the board considers expedient, real property or personal property, or both.

3. Publish and distribute papers or periodicals as the board of directors considers necessary to encourage and accomplish the purposes of the Florida Cattle Enhancement Board.

~~4.1. Receive and disburse funds, as prescribed elsewhere in this act,~~ to be used in administering and implementing this section ~~the act.~~

~~5.2. Maintain a permanent record of its business proceedings.~~

~~6.3. Maintain a permanent, detailed record of its financial dealings.~~

~~7.4. Prepare periodic reports and an annual report of its activities for the fiscal year, for review by the beef industry in this state, and file its annual report with the department.~~

~~8.5. Prepare, for review by the beef industry in this state, periodic reports and an annual accounting for each fiscal year of all receipts and expenditures~~ to be filed with the department, and ~~shall~~ retain a certified public accountant for this purpose.

~~9.6. Appoint a licensed banking institution to serve as the depository for program funds and to handle disbursements of those funds.~~

~~7. Maintain frequent communication with officers and industry representatives at the state and national levels,~~



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~~including the department.~~

~~10.8.~~ Maintain an office in this state.

(b) The board ~~council~~ may:

1. Conduct or contract for scientific research with any accredited university, college, or similar institution, and enter into other contracts or agreements that will aid in carrying out the purposes of the program, including contracts for the purchase or acquisition of facilities or equipment necessary to carry out the purposes of the program.

2. Disseminate reliable information benefiting the consumer and the cattle ~~beef~~ industry on subjects such as, but not limited to, the purchase, identification, care, storage, handling, cookery, preparation, serving, and nutritive value of beef and beef products.

3. Provide to government bodies, on request, information relating to subjects of concern to the cattle ~~beef~~ industry, and may act jointly or in cooperation with the state or Federal Government, and agencies thereof, in the development or administration of programs that the board ~~council~~ considers to be consistent with the objectives of the program.

4. Sue and be sued as a board ~~council~~ without individual liability of the members for acts of the council when acting within the scope of the powers of this act and in the manner prescribed by the laws of this state.

5. Borrow from licensed lending institutions money in amounts that are not cumulatively greater than 50 percent of the board's ~~council's~~ anticipated annual income.

~~6. Maintain a financial reserve for emergency use, the total of which must not exceed 50 percent of the council's~~



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~~anticipated annual income.~~

~~7. Appoint advisory groups composed of representatives from organizations, institutions, governments, or businesses related to or interested in the welfare of the beef industry and the consuming public.~~

~~6.8. Employ staff subordinate officers and employees of the council, prescribe their duties, and fix their compensation and terms of employment.~~

~~7.9. Cooperate with any local, state, regional, or nationwide organization or agency engaged in work or activities consistent with the objectives of the program.~~

~~10. Cause any duly authorized agent or representative to enter upon the premises of any market agency, market agent, collection agency, or collection agent and examine or cause to be examined by the authorized agent only books, papers, and records that deal with the payment of the assessment provided for in this act or with the enforcement of this act.~~

8. Fund cattle production and beef research, education, promotion, and consumer and industry information in this state and in the nation.

9. Plan, implement, and conduct programs of promotion, research, and consumer and industry information which are designed to strengthen the market position of the cattle industry in this state and in the nation and to maintain and expand domestic and foreign markets and expand uses for beef and beef products.

10. Plan and implement a cattle and beef industry feedback program in this state.

11. Coordinate research, education, promotion, industry,



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and consumer information programs with any national programs or programs of other states.

~~12.11.~~ Do all other things necessary to further the intent of this act which are not prohibited by law.

~~(7)(8)~~ ACCEPTANCE OF GRANTS AND GIFTS.—The board ~~council~~ may accept grants, donations, contributions, or gifts from any source if the use of such resources is not restricted in any manner that the board ~~council~~ considers to be inconsistent with the objectives of the program.

~~(8)(9)~~ PAYMENTS TO ORGANIZATIONS.—

(a) The board ~~council~~ may pay funds to other organizations for work or services performed which are consistent with the objectives of the program.

(b) Before making payments pursuant to ~~described in~~ this subsection, the board ~~council~~ must secure a written agreement that the organization receiving payment will:

1. Furnish at least annually, or more frequently on request of the board ~~council~~, written or printed reports of program activities and reports of financial data that are relative to the board's ~~council's~~ funding of such activities; and

2. Agree to have appropriate representatives attend business meetings of the board ~~council~~ as reasonably requested by the chairperson of the board ~~council~~.

(c) The board ~~council~~ may require adequate proof of security bonding on such ~~said~~ funds to any individual, business, or other organization.

~~(10) COLLECTION OF MONEYS AT TIME OF MARKETING.—~~

~~(a) Each collection agent may deduct from the gross receipts of the producer, at the time of sale, the assessment~~



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~~imposed by the council.~~

~~(b) The collection agent shall collect all such moneys and forward them to the council periodically, at least once a month, and the council shall provide appropriate business forms for the convenience of the collecting agent in executing this duty.~~

~~(c) The council shall maintain within its financial records a separate accounting of all moneys received under this subsection.~~

~~(d) The assessment is due and payable upon the sale of cattle in this state. The assessment constitutes a personal debt of the producer who is so assessed or who otherwise owes the assessment. If a producer fails to remit any properly due assessment, the council may bring a civil action against that person in the circuit court of any county for the collection thereof, and may add a penalty in the amount of 10 percent of the assessment owed, the cost of enforcing the collection of the assessment, court costs, and reasonable attorney's fees. The action shall be tried and judgment rendered as in any other cause of action for debts due and payable. All assessments, penalties, and enforcement costs are due and payable to the council.~~

~~(e) The council may adopt reciprocal agreements with other beef councils or similar organizations relating to moneys collected at Florida collection agents on cattle from other states and to Florida cattle sold at other state markets.~~

~~(f) The collection agents shall be entitled to deduct 2.5 percent of the amount collected to retain as a reasonable collection allowance prior to remitting the funds to the council.~~



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~~(11) REFUNDS.—~~

~~(a) A producer who has had moneys deducted from his or her gross sales receipts under this act is entitled to a prompt and full refund on request.~~

~~(b) The council shall make available to all collection agents business forms permitting request for refund, which forms are to be submitted by the objecting producer within 45 days after the sale transaction takes place.~~

~~(c) A refund claim must include the claimant's signature, date of sale, place of sale, number of cattle, and amount of assessment deducted, and must have attached thereto proof of the assessment deducted.~~

~~(d) If the council has reasonable doubt that a refund claim is valid, it may withhold payment and take such action as it considers necessary to determine the validity of the claim. Any dispute arising under this subsection shall be determined as specified in paragraph (10) (d).~~

~~(e) The council shall take action on refund requests within 30 calendar days following the date of receipt of the request.~~

~~(f) Only the producer may initiate a request for refund.~~

~~(12) VOTE ON CONTINUING THE ASSESSMENT.—Upon the delivery by certified mail to the Florida Beef Council office of petitions from at least 1,800 producers or 10 percent of Florida's producers as determined by the department, whichever is less, and stating "Shall the assessment authorized by the Beef Market Development Act continue?" the council shall, within 90 days, conduct a referendum to determine whether a majority of the producers voting in the referendum support the continuation of the Beef Market Development Act. All signatures must be~~



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~~collected within a 12-month period. A referendum held under this subsection may not be held more than one time in a 3-year period. Qualifications for signature and vote are the same as those required in subsection (6).~~

(9)(13) BYLAWS.—The Florida Cattle Enhancement Board ~~Beef Council~~ shall, within 90 days after the governing board is appointed ~~this act becomes a law~~, adopt bylaws to carry out the intents and purposes of this section ~~act~~. The ~~These~~ bylaws may be amended with a 30-day notice to governing board members at any regular or special meeting called for such ~~this~~ purpose. The bylaws must conform to the requirements of this section ~~act~~ but may also address any matter not in conflict with the general laws of this state.

(10)(14) REPEAL.—This section is repealed October 1, 2020 ~~2019~~, unless reviewed and saved from repeal by the Legislature.

Section 2. This act shall take effect July 1, 2015.

===== 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 Cattle Market Development Act;
amending s. 570.83, F.S.; renaming the Beef Market
Development Act as the Cattle Market Development Act;
renaming the Florida Beef Council, Inc., as the
Florida Cattle Enhancement Board, Inc.; conforming
intent and definitions; removing a provision that
deems a cow and nursing calf sold together as one



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unit; removing provisions providing for a \$1 per head
assessment and referenda; providing for the
Commissioner of Agriculture to appoint a voting member
rather than an ex officio, nonvoting member to the
governing board of the Cattle Enhancement Board;
providing for staggered terms of governing board
members; providing for initial and subsequent
appointment of governing board members; removing
provisions requiring the board to maintain frequent
communication with officers and industry
representatives at the state and national levels;
revising the authority of the board; revising the date
of the scheduled repeal of the act; making technical
changes; providing an effective date.

By Senator Grimsley

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1 A bill to be entitled
 2 An act relating to the Cattle Market Development Act;
 3 amending s. 570.83, F.S.; renaming the Beef Market
 4 Development Act as the Cattle Market Development Act;
 5 renaming the Florida Beef Council, Inc., as the
 6 Florida Cattle Enhancement Board, Inc.; conforming
 7 intent and definitions; removing a provision that
 8 deems a cow and nursing calf sold together as one
 9 unit; authorizing the Cattle Enhancement Board to
 10 impose additional assessments; revising the powers and
 11 duties of the board; providing for the Commissioner of
 12 Agriculture to appoint a voting member rather than an
 13 ex officio, nonvoting member to the governing board of
 14 the Cattle Enhancement Board; providing for staggered
 15 terms of governing board members; providing for
 16 initial and subsequent appointment of governing board
 17 members; authorizing the commissioner to initiate a
 18 referendum on assessments with certain notice;
 19 directing the commissioner to designate a specified
 20 number of days for a referendum to take place;
 21 limiting referenda on per-head-of-cattle assessments
 22 to once every 3 years; removing provisions requiring
 23 the board to maintain frequent communication with
 24 officers and industry representatives at the state and
 25 national levels; removing provisions authorizing the
 26 board to sue and be sued without individual liability
 27 of the members, to maintain a financial reserve for
 28 emergency use, to appoint advisory groups, to accept
 29 grants, donations, contributions, or gifts from any

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30 source, and to pay other organizations for work or
 31 services; specifying a date by which collection agents
 32 must collect and forward assessments to the board;
 33 removing provisions entitling collection agents to
 34 deduct a fee from the amount of assessments collected;
 35 removing a future repeal; providing an effective date.
 36
 37 Be It Enacted by the Legislature of the State of Florida:
 38
 39 Section 1. Section 570.83, Florida Statutes, is amended to
 40 read:
 41 570.83 Cattle ~~Beef~~ Market Development Act; definitions;
 42 Florida Cattle Enhancement Board ~~Beef Council~~, Inc., creation,
 43 purposes, governing board, powers, and duties; referendum on
 44 assessments imposed on gross receipts from cattle sales;
 45 payments to organizations for services; collecting and refunding
 46 assessments; vote on continuing the act; board council bylaws.—
 47 (1) SHORT TITLE ~~POPULAR NAME~~.—This section act may be cited
 48 as the "Cattle ~~Beef~~ Market Development Act."
 49 (2) LEGISLATIVE INTENT.—The Legislature intends by this act
 50 to promote the growth of the cattle industry in this state; to
 51 assure the public an adequate and wholesome food supply; to
 52 provide for the general economic welfare of producers and
 53 consumers of beef and the state; and to provide the ~~beef~~ cattle
 54 ~~production and feeding~~ industry of this state with the authority
 55 to establish a self-financed, self-governed program to help
 56 develop, maintain, and expand the state, national, and foreign
 57 markets for beef and beef products that are produced, processed,
 58 or manufactured in this state.

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(3) DEFINITIONS.—As used in this section ~~act~~, the term:

(a) "Beef" or "beef products" means the products of beef intended for human consumption which are derived from any bovine animal, regardless of age, including, but not limited to, veal.

~~(c) (b)~~ "Cattle" means such animals as are so designated by federal law, including any marketing, promotion, and research orders as are in effect. Unless such federal law provides to the contrary, the term "cattle" includes all bovine animals, regardless of age, including, but not limited to, calves. ~~A cow and nursing calf sold together are considered one unit.~~

~~(b) (e)~~ "Board" or "Florida Cattle Enhancement Board" "Council" means the Florida Cattle Enhancement Board ~~Beef Council~~, Inc.

~~(e) (d)~~ "Department" means the Department of Agriculture and Consumer Services.

~~(d) (e)~~ "Collection agent" means a person who sells, offers for sale, markets, distributes, trades, or processes cattle that have been purchased or acquired from a producer or that are marketed on behalf of a producer. The term also includes meatpacking firms and their agents that purchase or consign to purchase cattle.

(f) "Person" means any natural person, partnership, corporation, company, association, society, trust, or other business unit or organization.

(g) "Producer" means a person that has owned or sold cattle in the previous calendar year or presently owns cattle.

(4) FLORIDA CATTLE ENHANCEMENT BOARD BEEF COUNCIL, INC.; CREATION; PURPOSES.—

(a) There is created the Florida Cattle Enhancement Board

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~~Beef Council, Inc.~~, a not-for-profit corporation organized under the laws of this state for the purpose of ~~and~~ operating as a direct-support organization to ~~of~~ the department pursuant to this section.

(b) The ~~board may~~ council is authorized to impose an initial assessment, in addition to any other assessment provided by law, of not more than \$1 on each head of cattle sold in the state if the imposition of the assessment is approved by referendum pursuant to subsection (6). The proceeds of the assessment shall be used to fund the activities of the board council. ~~The council shall:~~

~~1. Establish the amount of the assessment at not more than \$1 per head of cattle.~~

~~2. Develop, implement, and monitor a collection system for the assessment.~~

~~3. Coordinate the collection of the assessment with other states.~~

~~4. Establish refund procedures.~~

~~5. Conduct referenda under subsections (6) and (12).~~

~~(c) The council shall:~~

~~1. Plan, implement, and conduct programs of promotion, research, and consumer information or industry information which are designed to strengthen the cattle industry's market position in this state and in the nation and to maintain and expand domestic and foreign markets and expand uses for beef and beef products.~~

~~2. Use the proceeds of the assessment for the purpose of funding cattle production and beef research, education, promotion, and consumer and industry information in this state~~

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and in the nation.

~~3. Plan and implement a cattle and beef industry feedback program in this state.~~

~~4. Coordinate research, education, promotion, industry, and consumer information programs with any national programs or programs of other states.~~

~~5. Develop new uses and markets for beef and beef products.~~

~~6. Develop and improve methods of distributing beef and beef products to the consumer.~~

~~7. Develop methods of improving the quality of beef and beef products for the benefit of consumers.~~

~~8. Inform and educate the public concerning the nutritive and economic values of beef and beef products.~~

~~9. Serve as a liaison within the beef and other food industries of the state and elsewhere in matters that would increase efficiencies that ultimately benefit both consumers and industry.~~

~~10. Buy, sell, mortgage, rent, or improve, in any manner that the council considers expedient, real property or personal property, or both.~~

~~11. Publish and distribute such papers or periodicals as the board of directors considers necessary to encourage and accomplish the purposes of the council.~~

~~12. Do all other acts necessary or expedient for the administration of the affairs and attainment of the purposes of the council.~~

~~13. Approve an annual plan, budget, and audit for the council.~~

(c)(d)1. The board council may not participate in or

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intervene in any political campaign on behalf of or in opposition to any candidate for public office. This restriction includes, but is not limited to, a prohibition against publishing or distributing any statements.

(d)2. ~~No part of~~ The net receipts of the board may not ~~council shall~~ inure to the benefit of or be distributable to its directors, its officers, or other private persons, except that the board council may pay reasonable compensation for services rendered by staff employees and may make payments and distributions in furtherance of the purposes of this section act.

(e)3. Notwithstanding any other provision of law, the board council may not carry on any other activities prohibited for not permitted to be carried on:

1.a. ~~By~~ A corporation exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended; or

2.b. ~~By~~ A corporation to which contributions are deductible under s. 170(c)(2) of the Internal Revenue Code of 1986, as amended.

(f)4. Notwithstanding any other statement of the purposes and responsibilities of the board council, the board council may not engage in any activities or exercise any powers that are not in furtherance of its ~~specific and primary~~ purposes.

(5) GOVERNING BOARD.—

(a) The Florida Cattle Enhancement Board ~~Beef Council, Inc.,~~ shall be governed by a board of directors composed of 14 ~~13~~ members as follows:

1. Eight, ~~including 8~~ representatives of the Florida

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Cattlemen's Association, of whom one is a representative of the Florida Association of Livestock Markets and one is a practicing order buyer.†

2. One a representative of the Dairy Farmers, Inc.†

3. One a representative of the Florida CattleWomen, Inc.†

4. One a representative of the Florida Farm Bureau Federation.†

5. One representative of an allied-industry.

6. One representative of the department appointed by the Commissioner of Agriculture. representative; and

7. One representative of the an Institute of Food and Agricultural Sciences representative.

(b) The initial board of directors shall be appointed by the Commissioner of Agriculture for staggered terms a term of 1 year for three members, 2 years for three members, 3 years for four members, and 4 years for four members. Each subsequent vacancy shall be filled in accordance with the bylaws of the Florida Cattle Enhancement Board ~~council~~. Thereafter, each ~~board~~ member of the board of directors shall be appointed by the Florida Cattle Enhancement Board to serve a 3-year term and may be reappointed to serve an additional consecutive term. A member may not serve more than two consecutive terms. A member must be a resident of this state and must be a producer who has been a producer for at least the 5 years immediately preceding the first day of his or her service on the board, except that the representative of the Florida Farm Bureau Federation, the allied-industry representative, the department representative, and the Institute of Food and Agricultural Sciences representative need not be producers. All members of the beef

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~~council board of directors positions shall serve without compensation but be unsalaried; however, the board members are entitled to reimbursement as provided in s. 112.061 for travel and other expenses incurred in carrying out the intent and purposes of this section act.~~

(c) The Florida Cattle Enhancement Board ~~council~~ shall provide for its officers through its bylaws, including the ability to set forth offices and responsibilities and form committees necessary for the implementation of this section act. ~~The Commissioner of Agriculture may designate an ex-officio nonvoting member of the board of directors.~~

(d) If a member of the board of directors misses three consecutive, officially called meetings, the board of directors may declare that position vacant.

(6) REFERENDUM ON ASSESSMENTS.—

(a) All producers in this state shall have the opportunity to vote in a referendum to determine whether the Florida Cattle Enhancement Board may council shall be authorized to impose an assessment of not more than \$1 per head on cattle sold in the state. The referendum shall pose the question: "Do you approve of a Florida an assessment program, up to \$1 per head of cattle pursuant to section 570.83, Florida Statutes, to be funded through specific contributions that are mandatory and refundable upon request?" The initial referendum under this paragraph shall take place within 180 days after July 1, 2015. Such referendum may not be held more often than once every 3 years.

(b) Additional referenda may be held to authorize the board to increase the assessment to more than \$1 per head of cattle if the board receives petitions from at least 1,800 producers or 10

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percent of Florida's producers as determined by the department, whichever is less, requesting an increase in the assessment or if the board, by a two-thirds vote of its voting members, approves a motion to increase the assessment. All petition signatures must be collected within a consecutive 12-month period. The referendum shall pose the question: "Do you approve of granting the Florida Cattle Enhancement Board, Inc., authority to increase the per-head-of-cattle assessment pursuant to section 570.83, Florida Statutes, from ...(present rate)... to up to a maximum of ...(proposed rate)... per head?" Such referendum may not be held more often than once every 3 years.

(c) If the board receives petitions from at least 1,800 producers or 10 percent of Florida's producers as determined by the department, whichever is less, asking, "Shall the assessment authorized by the Cattle Market Development Act continue?" the board shall, within 90 days, conduct a referendum to determine whether a majority of the producers voting in the referendum support the continuation of the Cattle Market Development Act. All petition signatures must be collected within a consecutive 12-month period. Such referendum may not be held more often than once every 3 years.

(d) The Commissioner of Agriculture may initiate a referendum with a 90-day notice, but not more often than once every 3 years.

(e)(a) A referendum held under this subsection ~~section~~ must be conducted by secret ballot at extension offices of the Institute of Food and Agricultural Sciences of the University of Florida or at offices of the United States Department of Agriculture with the cooperation of the department to ensure

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fairness in the referendum process.

(f) The Commissioner of Agriculture shall designate at least 5 but not more than 10 consecutive business days for the referendum to take place.

(g)(b) Notice of a referendum ~~to be held under this act~~ must be given at least once in trade publications, the public press, and statewide newspapers at least 30 days before the referendum is held.

(e) Additional referenda may be held to authorize the council to increase the assessment to more than \$1 per head of cattle. Such referendum shall pose the question: "Do you approve of granting the Florida Beef Council, Inc., authority to increase the per head of cattle assessment pursuant to section 570.83, Florida Statutes, from ...(present rate)... to up to a maximum of ...(proposed rate)... per head?" Referenda may not be held more often than once every 3 years.

(h)(d) Each ~~cattle~~ producer is entitled to only one vote in a referendum held under this subsection ~~section~~. Proof of identification and cattle ownership must be presented before voting.

(i)(e) A simple majority of those casting ballots shall determine any issue that requires a referendum under this subsection ~~section~~.

(7) POWERS AND DUTIES OF THE BOARD COUNCIL.—

(a) The board council shall:

1. Establish the amount of the assessment at not more than \$1 per head of cattle.
2. Develop, implement, and monitor a collection system for the assessment.

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291 3. Coordinate the collection of the assessment with other
 292 states.
 293 4. Establish refund procedures.
 294 5. Conduct referenda under subsection (6).
 295 6. Plan, implement, and conduct programs of promotion,
 296 research, and consumer and industry information which are
 297 designed to strengthen the market position of the cattle
 298 industry in this state and in the nation and to maintain and
 299 expand domestic and foreign markets and expand uses for beef and
 300 beef products.
 301 7. Use the proceeds of the assessment for the purpose of
 302 funding cattle production and beef research, education,
 303 promotion, and consumer and industry information in this state
 304 and in the nation.
 305 8. Plan and implement a cattle and beef industry feedback
 306 program in this state.
 307 9. Coordinate research, education, promotion, industry, and
 308 consumer information programs with any national programs or
 309 programs of other states.
 310 10. Serve as a liaison within the beef and other food
 311 industries of the state and elsewhere in matters that would
 312 increase efficiencies that ultimately benefit consumers and the
 313 industry.
 314 11. Buy, sell, mortgage, rent, or improve, in any manner
 315 that the board considers expedient, real property or personal
 316 property, or both.
 317 12. Publish and distribute such papers or periodicals as
 318 the board of directors considers necessary to encourage and
 319 accomplish the purposes of the Florida Cattle Enhancement Board.

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320 ~~13.1-~~ Receive and disburse funds, pursuant to as prescribed
 321 ~~elsewhere in this section act,~~ to be used in administering and
 322 implementing this section the act.
 323 ~~2. Maintain a permanent record of its business proceedings.~~
 324 ~~3. Maintain a permanent, detailed record of its financial~~
 325 ~~dealings.~~
 326 ~~4. Prepare periodic reports and an annual report of its~~
 327 ~~activities for the fiscal year, for review by the beef industry~~
 328 ~~in this state, and file its annual report with the department.~~
 329 ~~14.5-~~ Prepare, for review by the cattle beef industry in
 330 this state, periodic reports and an annual accounting for each
 331 fiscal year of all receipts and expenditures to be filed with
 332 the department, and ~~shall~~ retain a certified public accountant
 333 for this purpose.
 334 ~~15.6-~~ Appoint a licensed banking institution to serve as
 335 the depository for program funds and to handle disbursements of
 336 those funds.
 337 ~~7. Maintain frequent communication with officers and~~
 338 ~~industry representatives at the state and national levels,~~
 339 ~~including the department.~~
 340 ~~16.8-~~ Maintain an office in this state.
 341 17. Do all other acts necessary and permitted by law to
 342 further the intent of this section.
 343 (b) The board ~~council~~ may:
 344 1. Conduct or contract for scientific research with any
 345 accredited university, college, or similar institution, and
 346 enter into other contracts or agreements that will aid in
 347 carrying out the purposes of the program, including contracts
 348 for the purchase or acquisition of facilities or equipment

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necessary to carry out the purposes of the program.

2. Disseminate reliable information benefiting the consumer and the beef industry on subjects such as, but not limited to, the purchase, identification, care, storage, handling, cookery, preparation, serving, and nutritive value of beef and beef products.

3. ~~Provide to government bodies, on request, information relating to subjects of concern to the beef industry, and may~~ Act jointly or in cooperation with the state or Federal Government, and agencies thereof, in the development or administration of programs that the board ~~council~~ considers to be consistent with the objectives of the program.

4. ~~Sue and be sued as a council without individual liability of the members for acts of the council when acting within the scope of the powers of this act and in the manner prescribed by the laws of this state.~~

4.5. Borrow from licensed lending institutions money in amounts that are not cumulatively greater than 50 percent of the board's ~~council's~~ anticipated annual income.

6. ~~Maintain a financial reserve for emergency use, the total of which must not exceed 50 percent of the council's anticipated annual income.~~

7. ~~Appoint advisory groups composed of representatives from organizations, institutions, governments, or businesses related to or interested in the welfare of the beef industry and the consuming public.~~

5.8. Employ staff ~~subordinate officers and employees of the council~~, prescribe their duties, and fix their compensation and terms of employment.

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6.9. Cooperate with any local, state, regional, or nationwide organization or agency engaged in work or activities consistent with the objectives of the program.

7.10. Cause any duly authorized agent or representative to enter upon the premises of any market agency, market agent, collection agency, or collection agent and examine or cause to be examined, only by the authorized agent, only books, papers, and records that deal with the payment of the assessment provided for in this section ~~act~~ or with the enforcement of this section ~~act~~.

11. ~~Do all other things necessary to further the intent of this act which are not prohibited by law.~~

(8) ACCEPTANCE OF GRANTS AND GIFTS. The council may accept grants, donations, contributions, or gifts from any source if the use of such resources is not restricted in any manner that the council considers to be inconsistent with the objectives of the program.

(9) PAYMENTS TO ORGANIZATIONS.—

(a) The council may pay funds to other organizations for work or services performed which are consistent with the objectives of the program.

(b) Before making payments described in this subsection, the council must secure a written agreement that the organization receiving payment will:

1. Furnish at least annually, or more frequently on request of the council, written or printed reports of program activities and reports of financial data that are relative to the council's funding of such activities; and

2. Agree to have appropriate representatives attend

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407 ~~business meetings of the council as reasonably requested by the~~
 408 ~~chairperson of the council.~~

409 ~~(e) The council may require adequate proof of security~~
 410 ~~bonding on said funds to any individual, business, or other~~
 411 ~~organization.~~

412 ~~(8)(10)~~ COLLECTION OF MONEYS AT TIME OF MARKETING.—

413 (a) Each collection agent shall ~~may~~ deduct from the gross
 414 receipts of the producer, at the time of sale, the assessment
 415 imposed by the board council.

416 (b) The collection agent shall collect all such moneys and
 417 forward them to the board by the 15th of each council
 418 ~~periodically, at least once a month,~~ and The board council
 419 shall provide appropriate business forms for the convenience of
 420 the collecting agent in executing this duty.

421 (c) The board council shall maintain within its financial
 422 records a separate accounting of all moneys received under this
 423 section subsection.

424 (d) The assessment is due and payable upon the sale of
 425 cattle in this state. The assessment constitutes a personal debt
 426 of the producer who is so assessed or who otherwise owes the
 427 assessment. If a producer fails to remit any properly due
 428 assessment, the board council may bring a civil action against
 429 that person in the circuit court of any county for the
 430 collection thereof, and may add a penalty in the amount of 10
 431 percent of the assessment owed, the cost of enforcing the
 432 collection of the assessment, court costs, and reasonable
 433 attorney attorney's fees. The action shall be tried and judgment
 434 rendered as in any other cause of action for debts due and
 435 payable. All assessments, penalties, and enforcement costs are

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20151220__

436 due and payable to the board council.

437 (e) The board council may adopt reciprocal agreements with
 438 other beef councils or similar organizations relating to moneys
 439 collected by at Florida collection agents on cattle from other
 440 states and to Florida cattle sold at other state markets.

441 ~~(f) The collection agents shall be entitled to deduct 2.5~~
 442 ~~percent of the amount collected to retain as a reasonable~~
 443 ~~collection allowance prior to remitting the funds to the~~
 444 ~~council.~~

445 ~~(9)(11)~~ REFUNDS.—

446 (a) A producer who has had moneys deducted from his or her
 447 gross sales receipts under this section act is entitled to a
 448 prompt and full refund on request.

449 (b) The board council shall make available to all
 450 collection agents business forms for requesting refunds
 451 ~~permitting request for refund~~, which forms are to be submitted
 452 by the objecting producer within 45 days after the sale
 453 transaction takes place.

454 (c) A refund claim must include the claimant's signature,
 455 date of sale, place of sale, number of cattle, and amount of
 456 assessment deducted, and must have attached thereto proof of the
 457 assessment deducted.

458 (d) If the board council has reasonable doubt that a refund
 459 claim is valid, it may withhold payment and take such action as
 460 it considers necessary to determine the validity of the claim.
 461 Any dispute arising under this subsection shall be determined as
 462 specified in paragraph (8)(d) (10)(d).

463 (e) The board council shall take action on refund requests
 464 within 30 calendar days following the date of receipt of the

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request.

(f) Only the producer may initiate a request for refund.

~~(12) VOTE ON CONTINUING THE ASSESSMENT. Upon the delivery by certified mail to the Florida Beef Council office of petitions from at least 1,800 producers or 10 percent of Florida's producers as determined by the department, whichever is less, and stating "Shall the assessment authorized by the Beef Market Development Act continue?" the council shall, within 90 days, conduct a referendum to determine whether a majority of the producers voting in the referendum support the continuation of the Beef Market Development Act. All signatures must be collected within a 12 month period. A referendum held under this subsection may not be held more than one time in a 3-year period. Qualifications for signature and vote are the same as those required in subsection (6).~~

(10)(13) BYLAWS.—The Florida Cattle Enhancement Board Beef Council shall, within 90 days after the governing board is appointed ~~this act becomes a law~~, adopt bylaws to carry out the intents and purposes of this section act. ~~The~~ These bylaws may be amended with a 30-day notice to governing board members at any regular or special meeting called for such this purpose. The bylaws must conform to the requirements of this section act but may also address any matter not in conflict with the general laws of this state.

~~(14) REPEAL. This section is repealed October 1, 2019, unless reviewed and saved from repeal by the Legislature.~~

Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/15

Meeting Date

1220

Bill Number (if applicable)

Topic Cattle Enhancement Board

Amendment Barcode (if applicable)

Name Katey McClenny

Job Title _____

Address 3602 N Meridian Rd

Street

Phone 850-577-6500

Tallahassee

FL

32312

City

State

Zip

Email kmccleddy@asrlegal.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL cattlemens 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)

4/2/15
Meeting Date

1220
Bill Number (if applicable)

Topic Cattle Mkt Development Act

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Legislative Affairs Director

Address 315 S Calhoun St #830
Tallahassee FL 32301
City State Zip

Phone 222 2557

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Farm Bureau

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)

Apr. 2, 2015
Meeting Date

1220
Bill Number (if applicable)

Topic Cattle Marketing Development

Amendment Barcode (if applicable)

Name Grace Lovett

Job Title Dir. Legislative Affairs

Address PL 10 The Capitol
Street
Tallahassee FL 32399
City State Zip

Phone 850 617 7700
Email grace.lovett@freshfromflorida.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Dept. of Agriculture + Consumer Services

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

Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Health
and Human Services
Health Policy
Transportation

JOINT COMMITTEES:
Joint Administrative Procedures Committee
Joint Legislative Budget Commission

SENATOR DENISE GRIMSLEY

Deputy Majority Leader
21st District

March 30, 2015

The Honorable Anitere Flores, Chair
Senate Committee on Fiscal Policy
225 Knott Building
402 S. Monroe Street
Tallahassee, FL 32399-1300

Dear Madame Chair,

Senate Bill 520, relating to Long-term Care Insurance and Senate Bill 1220, relating to Cattle Market Development Act, will be considered by your committee this week. I will be in a Transportation Committee meeting and respectfully request that my legislative assistants, Anne Bell and Marty Mielke be able to present these bills. Ms. Bell will present SB 520, and Ms. Mielke, SB1220.

Thank you for your consideration.

Sincerely,

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

Denise Grimsley
Senator, District 21

DG/mm

REPLY TO:

- ☐ 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- ☐ 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- ☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 186

INTRODUCER: Fiscal Policy Committee; Regulated Industries Committee; Senator Latvala and others

SUBJECT: Malt Beverages

DATE: April 3, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Siples</u>	<u>McKay</u>	<u>CM</u>	<u>Favorable</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 186 revises the Beverage Laws related to malt beverages. Related to vendor-licensed brewers the bill:

- Authorizes the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to issue a vendor's license to a manufacturer of malt beverages for the sale of alcoholic beverages on property consisting of a single complex that includes a brewery (vendor-licensed brewer);
- Repeals the requirement that the licensed property include "other structures which promote the brewery and tourism industry of the state" in order to be eligible as a vendor licensed brewer;
- Limits the amount of malt beverages that can be transferred between breweries owned by the same brewer;
- Limits the number of vendor's licenses that can be issued to a manufacturer of malt beverages;
- Requires all malt beverages and other alcoholic beverages that are not manufactured at a brewery owned by the brewer to be obtained through a distributor, an importer, a sales agent, or a broker; and
- Prohibits vendor-licensed brewers from making deliveries.

Related to malt beverage tastings, the bill:

- Permits malt beverage tastings on certain premises;

- Requires malt beverage tastings to be limited to and directed to members of the general public of the age of legal consumption; and
- Clarifies that vendors may conduct malt beverage tastings on their licensed premises with beverages from their own inventory.

Related to malt beverage containers, the bill:

- Permits the filling and refilling of 32, 64, and 128 ounce malt beverage containers (known as “growlers”) at the point of sale;
- Requires growlers to be identified or be imprinted or labeled with certain information and to have an unbroken seal or be incapable of being immediately consumed.
- Establishes penalties for violations.

The bill is expected to have a minimal fiscal impact to the department.

II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,¹ which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.² The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (department) administers and enforces the Beverage Law.³

Three Tier System

In the United States, the regulation of alcohol, since the repeal of Prohibition, has traditionally been through what is termed the “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverage; the distributor obtains the beverages from the manufacturer and delivers them to the vendor. The vendor (retailer) makes the ultimate sale to the consumer.⁴ Manufacturers cannot sell directly to retailers or directly to consumers.

Generally, in Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.⁵ Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.⁶ Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.⁷

Tied House Evil Prohibitions

The system is deeply rooted in the perceived evils of the “tied house” in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail

¹ Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

² See s. 561.14, F.S.

³ Section 561.02, F.S.

⁴ Section 561.14, F.S.

⁵ Section 561.14(3), F.S. However, see discussion regarding the exceptions provided in s. 561.221, F.S.

⁶ Section 561.22, F.S.

⁷ Sections 563.022(14) and 561.14(1), F.S.

vendor.⁸ Activities between the three-tiers are heavily regulated to prevent a manufacturer or distributor from having and financial interest, directly or indirectly, in the establishment or business of a licensed vendor. For example, s. 561.42(1), F.S., prohibits a licensed manufacturer or distributor from assisting any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever.

Exception for Vendor-licensed Malt Beverage Manufacturers

There are some exceptions to the three-tier regulatory system. The exceptions include allowing beer brew pubs to manufacture malt beverages and to sell them to consumers,⁹ allowing individuals to bring small quantities of alcohol back from trips out-of-state,¹⁰ and allowing in-state wineries to manufacture and sell directly to consumers.¹¹ There is currently no limit to the number of vendor's licenses the division can issue to a qualifying manufacturer.

Tourism Exception

Section 561.221(2), F.S., permits a manufacturer of malt beverages to be licensed as a vendor, even if the manufacturer is also licensed as a distributor. To qualify for a vendor license, the manufacturer's property must consist of a single complex that includes a brewery and other structures that promote the brewery and the tourism industry of the state. The property may not be divided by more than one public street or highway. This type of license does not limit the amount of malt beverages that may be manufactured. It also does not limit the type of vendor license that the manufacturer may obtain, e.g., a license to sell beer, wine, and liquor, or a license that permits package sales of other alcoholic beverages.

Brewpub Exception

Section 561.221(3), F.S., permits a vendor to also be licensed as a manufacturer of malt beverages if the vendor is engaged in brewing malt beverages at a single location in an amount that does not exceed 10,000 kegs per year.¹² The malt beverages must be sold to consumers for consumption on the vendor's licensed premises or on contiguous licensed premises owned by the vendor. These vendors are known in the industry as "brew pubs."

Vendor Licenses

Section 561.20, F.S., limits the number of alcoholic beverage licenses that permit the sale of liquor¹³ along with beer and wine that may be issued per county. The number of licenses is

⁸ Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington's Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, (June 2004) available at: http://www.lanepowell.com/wp-content/uploads/2009/04/pricee_001.pdf (last visited Mar. 10, 2015).

⁹ See s. 561.221(2) and (3), F.S., which permit the manufacture of beer by vendors.

¹⁰ See s. 562.16, F.S., which permits the possession of less than one gallon of untaxed alcoholic beverages when purchased by the possessor out-of-state in accordance with the laws of the state where purchased and brought into the state by the possessor.

¹¹ See s. 561.221(1), F.S.

¹² Section 561.221(3)(a)1., F.S., defines the term "keg" as 15.5 gallons.

¹³ Section 565.01, F.S., defines "[t]he words "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced."

limited to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquors to one that does permit their sale. The quota license is the only type of alcoholic beverage license that is limited in number.

Section 565.02(1)(a)-(f), F.S., prescribes the license taxes for vendors who are permitted to sell any alcoholic beverages, including beer, wine and distilled spirits, regardless of alcoholic content.

On-Premises or Off-Premises Consumption Alcoholic Beverage Licenses

Section 563.02, F.S., distinguishes between places of business where a vendor is licensed to only sell malt beverages for off-premises consumption¹⁴ and places of business where on-premises consumption is permitted.¹⁵ According to the department, vendors licensed to sell malt beverages for on-premises consumption can also sell alcoholic beverages in sealed containers for the customer to take away from the licensed premises for off-premises consumption. Vendors licensed to sell malt beverages for consumption “only” on the licensed premises are not permitted to sell alcoholic beverages for off-premises consumption.¹⁶

According to alcoholic beverage industry representatives and a representative for the division, vendors with on-premises licenses routinely fill containers with a malt beverage and seal them for customers to take off-premises for later consumption. They note that current law does not prohibit this practice. The vendors typically seal the beverage container before the consumer leaves the premises so that the consumer will not violate any local ordinances that prohibit the carrying in public of open containers of alcoholic beverages or the state-law prohibition against the possession of open containers of alcoholic beverages in vehicles.¹⁷ The Beverage Law does not define the term “sealed container.”

In 1995, the department repealed a rule which explicitly stated that an on-premises malt beverage licensee could sell malt beverages for consumption off-premises in “sealed containers” and could also sell wine and distilled spirits in the “original sealed containers as received from the distributor.”¹⁸

Malt Beverage Containers

Section 563.06(6), F.S., requires that all malt beverages that are offered for sale by vendors must be packaged in individual containers containing no more than 32 ounces (one quart). However,

¹⁴ See s. 563.02(1)(a), F.S.

¹⁵ See s. 563.02(1)(b)-(f), F.S.

¹⁶ For example, the brew pub exemption under s. 561.221(3), F.S., permits sales for consumption only on the premises, but not sales for consumption off the premises.

¹⁷ See s. 316.1936, F.S.

¹⁸ Rule 7A-1.008, F.A.C., as amended on March 10, 1985. This rule was subsequently transferred to rule 61A-1.008, F.A.C., and then repealed on July 5, 1995.

malt beverages may be packaged in bulk, kegs, barrels, or in any individual container containing one gallon or more of a malt beverage regardless of individual container type.

Prior to 2001, s. 563.06(6), F.S., provided that malt beverages could be sold by vendors only in 8, 12, 16, or 32-ounce individual containers.¹⁹ Chapter 2001-78, L.O.F., amended that section to allow vendors to sell malt beverages in individual containers of “no more than 32 ounces.” The current provision that allows containers of one gallon or more was unaffected by that amendment.

Section 563.06(7), F.S., provides that any person, firm, or corporation, including its agents, officers or employees, violating any of the provisions of s. 563.06, F.S., is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.²⁰ It also provides that the license, if any, shall be subject to revocation or suspension by the division.

Growlers

Some states permit vendors to sell malt beverages in containers known as “growlers,”²¹ which typically are reusable containers between 32 ounces and one gallon that the consumer can fill with the vendor’s malt beverage for consumption off the licensed premises. According to a representative for several vendors who manufacture malt beverages, the national standard size for a growler is 64 ounces. Florida law does not permit the use of a 64-ounce malt beverage container.

Deliveries by Vendors

Section 561.57(1), F.S., permits all vendors to deliver products sold at the licensed place to an off-site location. Telephone or mail orders received at a vendor’s licensed place of business are construed as a sale actually made at the vendor’s licensed place of business. However, deliveries made by a vendor away from his or her place of business may only be made in vehicles that are owned or leased by the licensee. By acceptance of an alcoholic beverage licensee, the vendor is presumed to agree to the inspection of the vehicle without a search warrant by employees of the division or law enforcement officers to ascertain compliance with all provisions of the alcoholic beverage laws.²²

Alcoholic Beverage Tastings

Section 561.42(14)(e), F.S., prohibits sampling activities that include the tasting of beer at a vendor’s premises that is licensed for off-premises sales only. This prohibition applies to

¹⁹ See also *Review of the Malt Beverage Container Size Restrictions*, Interim Report No. 2000-65, Florida Senate Committee on Regulated Industries, September 1999, available at http://archive.flsenate.gov/data/Publications/2000/Senate/reports/interim_reports/pdf/00-65ri.pdf (last visited Mar. 10, 2015).

²⁰ Section 775.082, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a term of imprisonment not exceeding 1 year. Section 775.083, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

²¹ The term “growlers” is derived from the late 1800s and early 1900s practice in which fresh beer was carried from the local pub to one’s home by means of a small-galvanized pail. When the beer sloshed around the pail, it created a rumbling sound as the carbon dioxide escaped through the lid. See “*The Growler: Beer-to-Go!*,” *Beer Advocate* (July 31, 2002), available at <http://beeradvocate.com/articles/384> (last visited Mar. 10, 2015).

²² Section 561.57(2), F.S.

manufacturers, distributors, importers, brand owners or brand registrants of beer, and their sales agents or sales persons.

Section 564.08, F.S., permits licensed wine distributors and vendors to conduct wine tastings at any licensed premises authorized to sell wine or spirituous beverages by package or for consumption on premises without violating s. 561.42, F.S., provided that the conduct of the wine tasting is limited to and directed toward the general public of the age of legal consumption.

Section 565.17, F.S., permits licensed distributors of spirituous beverages and vendors to conduct spirituous beverage tastings at any licensed premises authorized to sell spirituous beverages by package or for consumption on premises without violating s. 561.42, F.S., provided that the conduct of the spirituous beverage tasting is limited to and directed toward the general public of the age of legal consumption.

III. Effect of Proposed Changes:

Vendor-Licensed Brewers

Section 1 amends s. 561.221, F.S., to authorize the division to issue a vendor's license to a manufacturer of malt beverages for the sale of alcoholic beverages on property consisting of a single complex that includes a brewery (otherwise known as a vendor-licensed brewers). The bill clarifies that the exemption for vendor-licensed brewers is notwithstanding the prohibitions in ss. 561.22 and 561.42, F.S., or any other provision in the Beverage Law.

The bill repeals the requirement that the brewery must include "other structures which promote the brewery and the tourist industry of the state" in order to be eligible as a vendor-licensed brewer. It also repeals the requirement that the property cannot be divided by more than one public street or highway.

The bill limits the amount of malt beverages that can be transferred in a manufacturer-to-manufacturer transfer, as provided in s. 563.022(14)(d), F.S., to an amount equal to 100 percent of the yearly production of the receiving brewery. The bill also provides that malt beverages and other alcoholic beverages that are not manufactured at a brewery owned by the vendor-licensed brewer must be obtained through a distributor, an importer, sales agent, or broker.²³

The bill limits the number of vendor's licenses that the division can issue to a manufacturer of malt beverages to nine.

The bill prohibits vendor-licensed brewers from making deliveries under s. 561.57(1), F.S.

²³ This requirement is the same as current law, see s. 561.14(3), F.S. Vendors licensed to sell alcoholic beverages at retail only. No vendor shall purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law.

Malt Beverage Tastings

Section 2 amends s. 561.42(14)(e), F.S., to repeal the prohibition against malt beverage tastings at locations licensed for off-premises sales only. The bill permits a manufacturer, distributor, importer, or contracted third-party agent thereof, to conduct malt beverage tastings to be held on:

- The licensed premises of any vendor authorized to sell alcoholic beverages by the drink for consumption on-premises; or
- The licensed premises of any vendor authorized to sell alcoholic beverages only in sealed containers for consumption off-premises if:
 - The licensed premises has at least 10,000 square feet of interior floor space exclusive of storage space; or
 - The licensed premises is a package store licensed under s. 565.02(1)(a), F.S.

The malt beverages tastings must be limited and directed to members of the general public of the age of legal consumption.

The bill does not preclude a vendor, including a vendor or manufacturer licensed under s. 561.221(2) or (3), F.S., from conducting a malt beverage tasting on its licensed premises with beverages from its own inventory.

Growler Sales

Section 3 creates s. 563.0614, F.S., to permit the filling of malt beverages in individual containers of 32, 64, or 128 ounces if the container is filled at the point of sale by any of following licensees:

- Vendor-licensed brewers;²⁴
- Vendors holding a quota license to sell alcoholic beverages only in sealed containers for consumption off-premises;²⁵ and
- Vendors holding a license under which authorizes consumption of malt beverages on-premises, unless such license restricts consumption to on the premises only.²⁶

Except for quota licenses under ss. 561.20(1) and 565.02(1)(a), vendors licensed to sell beverages only for off-premises consumption would not be authorized to sell growlers.

Under the bill, a violation of the requirements to fill containers will result in a first degree misdemeanor and the revocation or suspension of the licensee.²⁷

The bill requires that containers must identify or be imprinted or labeled with information specifying:

- The manufacturer;
- The brand of the malt beverage; and
- The anticipated percentage of alcohol by volume.

²⁴ Licensed pursuant to s. 561.221(2), F.S.

²⁵ Licensed pursuant to s. 561.20(1) and 565.02(1)(a), F.S.

²⁶ Licensed pursuant to s. 563.02(1)(b)-(f), s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), F.S.

²⁷ *Supra* at n. 20.

The bill also requires that the container have an unbroken seal or be incapable of being immediately consumed.

The bill authorizes the division to impose a fine of up to \$250 for a violation of the labeling requirements.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Authorized vendors may experience an increase in sales due to the ability to sell malt beverages in a 64-ounce container.

C. Government Sector Impact:

According to the Department of Business and Professional Regulation, the bill will require minimal increase in the department's workload which can be absorbed within existing resources.²⁸

VI. Technical Deficiencies:

None.

²⁸ Department of Business and Professional Regulation, *Legislative Bill Analysis, Senate Bill 186* (Jan. 8, 2015) (on file with the Senate Committee on Commerce and Tourism).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 561.221 and 561.42.

This bill creates section 563.0614 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Fiscal Policy Committee on April 2, 2015:

The CS limits the number of vendor's licenses that the division can issue to a manufacturer of malt beverages to nine.

CS by Regulated Industries Committee on February 18, 2015:

The committee substitute (CS) is substantively different from SB 186 as follows:

The CS amends s. 561.221(2), F.S., to provide that the division may issue a vendor's license to a manufacturer of malt beverages for the sale of alcoholic beverages on property consisting of a single complex that includes a brewery. It deletes the requirements that property must include "other structures which promote the brewery and the tourist industry of the state" and the requirement that the property may be divided by no more than one public street or highway.

The CS also amends s. 561.221(2), F.S., to limit the amount of malt beverages that can be transferred in a manufacturer-to-manufacturer transfer, as provided in s. 563.022(14)(d), F.S., to 100 percent of the yearly production of the receiving brewery. The CS provides that all malt beverages and other alcoholic beverages that are not manufactured at a brewery owned by the brewer must be obtained through a distributor, an importer, sales agent, or broker. The CS also prohibits vendor-licensed brewers from making deliveries under s. 561.57(1), F.S.

The CS amends s. 561.42(14)(e), F.S., to repeal the prohibition against malt beverage tastings at locations licensed for off-premises sales only. It permits malt beverage tastings at locations licensed for on-premises consumption and off-premises consumption. It provides that a vendor authorized to sell alcoholic beverages only in sealed containers for consumption off the premises may have malt beverage tastings if the premises has at least 10,000 square feet of interior space or the premises is a package store with a quota license that is licensed for off-premises sales only. The malt beverages tastings must be limited to and directed to members of the general public of the age of legal consumption. The CS bill clarifies that vendors may conduct malt beverage tastings on their licensed premises with beverages from their own inventory.

The CS amends s. 563.0614(2), F.S., to require the labeling of the anticipated percentage of alcohol by volume.

B. Amendments:

None.

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



454540

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment (with title amendment)

Between lines 47 and 48
insert:

(b) The division is authorized to issue up to nine vendor's licenses to a manufacturer of malt beverages pursuant to this subsection.

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

And the title is amended as follows:



454540

11 Between lines 6 and 7
12 insert:
13 limiting the number of vendor's licenses that the
14 Division of Alcoholic Beverages and Tobacco of the
15 Department of Business and Professional Regulation may
16 issue to a manufacturer of malt beverages;

By the Committee on Regulated Industries; and Senators Latvala,
Gibson, and Clemens

580-01696-15

2015186c1

A bill to be entitled

An act relating to malt beverages; amending s. 561.221, F.S.; revising the exception for the licensing of malt beverage manufacturers as vendors; providing restrictions on the sale of malt beverages; prohibiting the delivery of certain malt beverages; amending s. 561.42, F.S.; authorizing malt beverage tastings upon certain licensed premises; creating s. 563.0614, F.S.; authorizing the sale of malt beverages packaged in individual containers of certain sizes if they are filled at the point of sale by certain licenseholders; requiring each container to be imprinted or labeled with certain information and have an unbroken seal or be incapable of being immediately consumed; providing penalties; providing an effective date.

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

Section 1. Subsection (2) of section 561.221, Florida Statutes, is amended to read:

561.221 Licensing of manufacturers and distributors as vendors and of vendors as manufacturers; conditions and limitations.—

(2)(a) Notwithstanding s. 561.22, s. 561.42, or any other provision of the Beverage Law, the division is authorized to issue vendor's licenses to a manufacturer of malt beverages, even if such manufacturer is also licensed as a distributor, for

Page 1 of 5

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

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the sale of alcoholic beverages on property consisting of a single complex, which property shall include a brewery ~~and such other structures which promote the brewery and the tourist industry of the state. However, such property may be divided by no more than one public street or highway.~~ Notwithstanding any other provision of the Beverage Law, a manufacturer holding multiple manufacturing licenses may transfer malt beverages to a licensed facility, as provided in s. 563.022(14)(d), in an amount up to the yearly production amount at the receiving facility. Malt beverages and other alcoholic beverages manufactured by another licensed manufacturer, including any malt beverages that are owned in whole or in part by the manufacturer but are brewed by another manufacturer, must be obtained through a licensed distributor that is not also a licensed manufacturer, a licensed broker or sales agent, or a licensed importer. A manufacturer possessing a vendor's license under this subsection is not permitted to make deliveries under s. 561.57(1).

Section 2. Paragraph (e) of subsection (14) of section 561.42, Florida Statutes, is amended to read:

561.42 Tied house evil; financial aid and assistance to vendor by manufacturer, distributor, importer, primary American source of supply, brand owner or registrant, or any broker, sales agent, or sales person thereof, prohibited; procedure for enforcement; exception.—

(14) The division shall adopt reasonable rules governing promotional displays and advertising, which rules shall not conflict with or be more stringent than the federal regulations pertaining to such promotional displays and advertising

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furnished to vendors by distributors, manufacturers, importers, primary American sources of supply, or brand owners or registrants, or any broker, sales agent, or sales person thereof; however:

(e) A manufacturer, distributor, or importer of malt beverages, or any contracted third-party agent thereof, may ~~Manufacturers, distributors, importers, brand owners, or brand registrants of beer, and any broker, sales agent, or sales person thereof, shall not~~ conduct any sampling activities that include the tasting of malt beverage products on: their product ~~at a vendor's premises licensed for off-premises sales only.~~

1. The licensed premises of any vendor authorized to sell alcoholic beverages by the drink for consumption on premises; or

2. The licensed premises of any vendor authorized to sell alcoholic beverages only in sealed containers for consumption off premises if:

a. The licensed premises is at an establishment having at least 10,000 square feet of interior floor space exclusive of storage space not open to the general public; or

b. The licensed premises is a package store licensed under s. 565.02(1)(a) selling their product at a vendor's premises licensed for off-premises sales only.

A malt beverage tasting conducted under this paragraph must be limited to and directed toward the general public of the age of legal consumption. This paragraph does not preclude a vendor, including a vendor or manufacturer licensed pursuant to s. 561.221(2) or (3), from conducting a malt beverage tasting on its licensed premises using malt beverages from its own

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inventory.

Section 3. Section 563.0614, Florida Statutes, is created to read:

563.0614 Malt beverage container sizes.—

(1) Notwithstanding any other provision of the Beverage Law, a malt beverage may be packaged in an individual container of 32, 64, or 128 ounces if it is filled at the point of sale by any of the following:

(a) A licensed manufacturer of malt beverages which holds a vendor's license under s. 561.221(2).

(b) A vendor holding a quota license that authorizes the sale of malt beverages under ss. 561.20(1) and 565.02(1)(a).

(c) A vendor holding a license under s. 563.02(1)(b)-(f), s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), unless such license restricts the sale of malt beverages to consumption on the premises only.

(2) The container must identify or be imprinted or labeled with information specifying the manufacturer, the brand of the malt beverage, the anticipated percentage of alcohol by volume, and must have an unbroken seal or be incapable of being immediately consumed.

(3) A person, firm, or corporation, including its agents, officers, or employees, which violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and the license held by the person, firm, or corporation, if any, is subject to revocation or suspension by the division. A person, firm, or corporation, including its agents, officers, or employees, which violates subsection (2) may be subject to a fine by the division of up to \$250.

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Section 4. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA

20th District

March 17, 2015

The Honorable AniteresFlores, Chair
Senate Committee on Fiscal Policy
225 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Flores:

I respectfully request consideration of Senate Bill 186 regarding Malt Beverages by the Committee on Fiscal Policy at your earliest convenience. The bill was referred favorably from Commerce and Tourism on March 16th.

This bill would update Florida's alcohol beverage laws by legalizing the industry size standard for craft beer growlers and allowing the sale of malt beverages in a 64 oz. container.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jack Latvala".

Jack Latvala
State Senator
District 20

Cc: Jennifer Hrdlicka, Staff Director; Tamra Lyon, Administrative Assistant

REPLY TO:

- ☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- ☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 2, 2015
Meeting Date

186
Bill Number (if applicable)

454540
Amendment Barcode (if applicable)

Topic Malt beverages

Name Josh Aubuchon

Job Title Exec. Dir.

Address 315 S. Mahan St.
Street

Phone 224-7000

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 Brewers Guild

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)

4/2/15
Meeting Date

SB 186
Bill Number (if applicable)

4541540
Amendment Barcode (if applicable)

Topic Beer

Name Eric Criss

Job Title President +

Address 110 S. Monroe St
Street

Phone 491-3903

Tally
City State Zip

Email eric@floridabeer.org

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Beer Industry of FL

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)

April 2, 2015
Meeting Date

CS/SB 186
Bill Number (if applicable)

454340
Amendment Barcode (if applicable)

Topic Malt Beverages

Name Kevin Bowler

Job Title Principal - Owner

Address 2275 Mason Ave.
Street

Phone (386) 274-4005

Daytona Beach, FL 32117
City State Zip

Email kevinb@daytonabud.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Daytona Beverages

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)

4/2/15

Meeting Date

SB186

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director

Address PO Box 89757

Phone 844-433-3872

Street

Tampa, FL 33609

Email amber@fdfamerica.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Foundation for Defense of Families

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)

April 2, 2015

Meeting Date

186

Bill Number (if applicable)

Topic Malt Beverages

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title Executive Director

Address 315 S. Calhoun St.

Phone 224-7000

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 Brewers Guild

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)

4/1/2015

Meeting Date

186

Bill Number (if applicable)

Topic MALT BEVERAGE

Amendment Barcode (if applicable)

Name BYRON BURZOGHIS

Job Title OWNER

Address 644 McDONNELL DR

Phone 443-6757

Street

TALLAHASSEE FL 32310

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing PIRCE BIRTHING CO.

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)

4/2/15

Meeting Date

SB 186

Bill Number (if applicable)

Topic Malt Beverages

Amendment Barcode (if applicable)

Name Skylar Zander

Job Title Deputy State Director

Address 2100 W College

Phone 850-728-4520

Street

Tallahassee FL 32301

City

State

Zip

Email szander@alpha.org

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.

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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)

4/2/15

Meeting Date

186

Bill Number (if applicable)

Topic

Malt Beverages

Amendment Barcode (if applicable)

Name

JOE MOBLEY

Job Title

Address

200 W. College Ave, Ste 310

Phone

650-222-1959

Street

Tallahassee

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

INTUITION ALE WORKS

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)

4/2/2015

Meeting Date

SB 186

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JOSE GONZALEZ

Job Title VP STATE AFFAIRS

Address PO BOX 836

Phone 294-4057

Street

TALLAHASSEE, FL 32302

JOSE.GONZALEZ@ANHEUSER-BUSCH.COM
Email

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing ANHEUSER BUSCH

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)

CourtSmart Tag Report

Room: KN 412

Caption: Senate Fiscal Policy Committee

Case:

Judge:

Type:

Started: 4/2/2015 11:34:23 AM

Ends: 4/2/2015 1:00:01 PM **Length:** 01:25:39

11:35:05 AM Roll call
11:35:21 AM Tab 3 SB 600 Senator Richter
11:36:42 AM SB 600 favorable
11:37:09 AM Tab 10 SB 676 Senator Benacquisto
11:38:40 AM SB 676 favorable
11:39:06 AM Tab 11 SB 842 Senator Benacquisto
11:39:55 AM SB 842 favorable
11:40:19 AM Tab 1 SB 220 Senator Simpson
11:40:43 AM Amendment Barcode 262924 by Senator Bean
11:42:12 AM Amendment favorable
11:43:50 AM SB 220 favorable as amended
11:44:15 AM Tab 4 SB 956 Senator Simpson
11:45:17 AM SB 956 favorable
11:45:39 AM Tab 6 SB 1140 Senator Montford
11:45:54 AM Amendment barcode 884566
11:47:16 AM SB 1140 as amended favorable
11:47:35 AM Tab 2 SB 520 Senator Grimsley (Anne Bell)
11:48:33 AM SB 520 favorable
11:48:57 AM Tab 12 SB 1220 Senator Grimsley (Marty Mielke)
11:49:34 AM Amendment barcode 108472 by Senator Hays
11:50:10 AM Amendment favorable
11:50:29 AM SB 1220 as amended favorable
11:50:56 AM Tab 7 SB 7002 Senator Detert (Charlie Anderson)
11:51:18 AM Amendment barcode 898456
11:52:00 AM Amendment favorable
11:52:11 AM SB 7002 favorable
11:52:42 AM Tab 9 SB 608 Senator Stargel
11:52:56 AM Amendment barcode 138190
11:53:10 AM Amendment barcode 963650 amendment to barcode 138190
11:53:58 AM 963650 favorable
11:54:30 AM 138190 favorable
11:54:36 AM SB 608 favorable as amended
11:54:58 AM Tab 13 SB 186 Senator Latvala
11:55:56 AM Amendment barcode 454540 by Senator Bradley
11:58:41 AM Eric Criss, President, Beer Industry of Florida
11:59:58 AM Kevin Bowler, Owner, Daytona Beverages
12:07:40 PM Amendment favorable
12:07:59 PM Amber Kelly, Director, Foundation for Defense of Families
12:10:41 PM Josh Aubuchon, Executive Director, Florida Brewers Guild
12:11:44 PM Byron Burroughs, Owner, Proof Brewing Co.
12:13:16 PM Senator Stargel
12:15:24 PM Senator Sachs
12:16:12 PM Senator Bradley
12:19:54 PM SB 186 favorable
12:21:11 PM Tab 5 SB 960 Senator Lee (Doug Roberts)
12:22:37 PM Amendment barcode 835856 by Senator Legg
12:24:42 PM Amendment favorable
12:26:06 PM Senator Bradley
12:27:08 PM SB 960 favorable
12:27:46 PM Tab 8 SB 102 Senator Hukill
12:32:49 PM Amendment barcode 473040 by Senator Hukill
12:34:02 PM Amendment favorable

12:34:13 PM	Senator Abruzzo
12:34:49 PM	Senator Sachs
12:36:22 PM	Sasha Klein, Florida Bankers
12:38:55 PM	Steve Delbianco, NetChoice
12:49:09 PM	Travis Hayes, Florida Bar
12:55:58 PM	Dan Sachs, Facebook
12:58:41 PM	SB 102 favorable
12:59:44 PM	Senator Clemens moves we rise